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Friday
March 25, 1983

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Commodity Futures Trading Commission

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools; Verification of Eligibility

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: On May 25, 1982, the Department published a proposed rule concerning verification of eligibility for free or reduced price meals or free milk in the National School Lunch, School Breakfast, Special Milk and Commodity School Programs. Under the proposal, minimum standards would have been established for the verification of the information provided by parents on the application for free or reduced price benefits. Two hundred and eleven comments were received during the 60-day comment period. This rule responds to both the commentor concerns and the verification related provisions of Section 803 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). In an effort to reduce program abuse in the delivery of free and reduced price benefits, this interim rule *recommends* minimum verification standards for School Year 1982-83 and *requires* minimum verification standards for School Year 1983-84 and subsequent years.

DATES: This rule is effective April 25, 1983, except for the recordkeeping requirements that are included in § 245.6a which are being submitted for approval to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and are not effective until approved by that office. To be assured of consideration, comments on this rule must be postmarked on or before May 24, 1983.

ADDRESS: Comments should be sent to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, USDA-FNS, Room 509, 3101 Park Center Drive, Alexandria, Virginia 22302. All written submissions will be available for public review at the address listed above, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Garnett at the address listed above or call (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification—This interim rule has been reviewed under Executive Order 12291 and has been classified as not major. We do not anticipate that this rule will have an impact on the economy of more than $100 million. This interim rule is intended to ensure that free and reduced price benefits are directed to only those children from families whose income falls within the Income Eligibility Guidelines set forth by the Department. No major increase in cost or prices for program participants; individual industries; Federal, State, or local government agencies; or geographic regions is anticipated. This interim rule is not expected to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

This interim rule has been reviewed with regard to the requirements of Pub. L. 96-354. The Administrator of the Food and Nutrition Service has cerified that this interim rule does not have a significant economic impact on a substantial number of State agencies and School Food Authorities.

Background—On May 25, 1982, the Department published a rule in the **Federal Register** (47 FR 22707) which proposed minimum standards for: The verification of the information on free or reduced price meal or free milk applications, the notification to households when benefits are reduced or terminated, and State agency recordkeeping requirements. A 60-day comment period was provided during which time the Department received 211 comments. Commentors represented State educational agency personnel, School Food Authority personnel, private citizens, advocacy groups, professional organizations and other State agency staff.

The Department would like to thank all commentors who responded to the proposal. Especially appreciated were the many detailed suggestions which were very helpful in the development of the interim rule. The remainder of this preamble will discuss the major concerns expressed by the commentors and the specific changes being made.

General Comments

Seventy-three commentors expressed concerns regarding the timing of the proposal and the effective date of the interim rule. Of these commentors, 58 recommended that the interim rule be delayed until the completion of the Department's pilot study on income verification. Fifteen commentors suggested delaying the interim rule until after the start of the 1983-84 School Year. Several commentors recommended making verification requirements optional for School Year 1982-83. The Department agrees with the concerns regarding the timing of this interim rule. Therefore, the Department is recommending that State agencies and School Food Authorities implement the minimum verification standards for School Year 1982-83 and is requiring minimum verification standards for School Year 1983-84.

The Department concurs with commentors who stated that the timing of this rule does not provide some States and schools adequate time to train staff and complete the verification requirement this school year. By postponing the verification requirement, the Department will have the benefit of comments by school administrators who have gained operational expertise this school year. It is important that administrators submit such comments as soon as possible for analysis by the Department. In addition, the results of the pilot study on verification will provide explicit information as to the effectiveness and administrative burden of varying verification methods.

Twenty-three commentors argued that little fraudulent activity exists, thus negating the need for verification. The Department's Office of Inspector General (OIG) has documented that misreporting of income and household size resulted in a loss of Federal dollars

in School Year 1980–81. Given the OIG's evidence of Federal loss, the Department believes that sufficient cause exists to establish parameters for the verification of income eligibility information.

Thirty-three commentors objected to the potential for the educator to be treated as investigator. The Department has intentionally provided flexibility for the State agency and local School Food Authority to fulfill verification responsibilities. Over 100 commentors indicated that this approach would create an administrative burden, yet few alternatives were suggested.

Twenty-six commentors expressed serious concerns regarding the invasion of privacy. A number questioned the legal implications of verification activities. For this reason, the Department has expanded its definition of verification and has provided parameters for verification efforts.

Section 245.2 Definitions.

A number of commentors requested clarification of the proposed intention to define verification as the "substantiation of the information provided on the free and reduced price application. Verification may include but is not limited to the use of wage stubs, award letters, letters from employers, third party contacts, and computerized wage/income matching." Commentors requested clarification of "third party contact," computer income matching and the difference between documentation, as defined in the interim rule "Revised Application Procedures" (47 FR 22704), and verification. Several commentors pointed out that the legality of each approach is dependent upon the manner in which it is implemented.

The interim rule "Revised Application Procedures" defines documentation as "at a minimum, the completion of the following information on the free and reduced price application: (1) Total household income; (2) names of all household members; (3) social security numbers of all adult household members or an indication that a household member does not possess one; and (4) signature of an adult member of the family." The Department inserted the phrase "at a minimum" to enable School Food Authorities to require additional information, such as age of household members and names of employers, to facilitate verification.

The Department intended such additional information to be used in the verification process for those households selected for verification. Such additional information may be requested on the application but is not to be used to establish additional eligibility criteria in order to determine eligibility. When applications are received, they must be approved if the four basic documentation factors listed above indicate eligibility. Consequently, this interim rule deletes the phrase "at a minimum" from the definition of "documentation" to clarify that schools may not seek additional documentation for the purpose of establishing eligibility.

This rule defines verification as the confirmation of eligibility for free and reduced price benefits under the Program, through sources such as written evidence, pay stubs, and collateral contacts.

The month chosen for confirmation of income information would depend primarily on when in the school year verification efforts take place and/or on the source used for obtaining income information. When requesting written evidence from the household, income information should be for the most current full month.

In response to commentor concerns, § 245.6a of the regulations clarifies each source of verification. Written evidence is viewed as a primary source of verification. Written evidence includes written confirmation of a household's circumstances. Whenever written evidence is insufficient to confirm eligibility, the School Food Authority may require collateral contacts.

For households with employed members, written confirmation of income information includes but is not limited to: paycheck stubs, pay envelopes stating earnings or a letter from the employer stating wages paid. For self-employed persons income information may include: FICA (social security) payment statements or the last quarterly estimate of taxes. Households with unemployed members may provide written confirmation of income through benefit letters from public assistance programs, unemployment benefit notices or the most recent unemployment check, court decrees or most recent check for alimony or child support, disability or workman's compensation notices, or Veteran Administration benefit letters. Households must be allowed to submit evidence of participation in the Food Stamp Program in lieu of other income information.

A collateral (third party) contact is an oral confirmation of a household's circumstances by a person outside of the household. The collateral contact may be either in person or over the telephone. The verifying official may select a collateral contact if the household fails to designate one or designates one which is unacceptable to the verifying official. Examples of acceptable collateral contacts may include employers, landlords, social service agencies, or migrant service agencies, who can be expected to provide accurate third party verification. If the verifying official designates a collateral contact, the contact may not be made without providing prior written or oral notice to the household. At the time of this notice the household must be informed that it may consent to the contact or provide acceptable verification in another form. If the household refuses to choose one of these options, its eligibility must be terminated in accordance with the normal procedures for failure to cooperate with verification efforts. Systems of records to which the State agency or School Food Authority has access are not considered collateral contacts and, therefore, need not be designated by the household.

As commentors pointed out, the manner in which each type of verification is implemented is subject to scrutiny in light of individual rights of privacy. As in the proposal, the Department urges State agencies and School Food Authorities to obtain approval of verification methods by State or local legal counsel to ensure conformity with applicable Federal, State and local laws.

Several commentors urged clarification of what information is to be verified. This interim rule clarifies that verification is to be limited to income and, at State or local discretion, household size.

Section 245.6a Verification Requirements.

3% or 3,000: Thirty-two commentors found the proposed requirement to verify three percent or 3,000 (whichever is less) of all applications on file as of October 15 in each School Food Authority to be burdensome. Two commentors believed the Department had not provided sufficient rationale for the number of applications to be verified while another commentor recommended that the minimum number to be verified should be a local decision.

Initially, the Department considered requiring 10 percent of all applications to be verified. However, it was determined that a 10-percent requirement would indeed create a burden on some State and local administrators. For this reason, the Department initiated informal discussions with the Office of Management and Budget, the Department's Office of Inspector General, State agencies and Regional Offices as to what percentage of applications we could, at a minimum,

reasonably require to be verified. The proposed three percent or 3,000 (whichever is less) level represented the resultant compromise. Since only 32 commentors stated that such a sample size would be administratively burdensome, the sample size has been retained for use next school year.

While no minimum verification standards are required for School Year 1982–83, the Department strongly encourages School Food Authorities to verify a minimum of three percent or 3,000 of the approved applications on file as October 31. The operational experience gained by those School Food Authorities will provide the Department with invaluable information concerning the feasibility of future regulatory actions. Of particular interest to the Department is information to assist in our analysis of the techniques used to verify information; the cost to the School Food Authority, including staff and printing costs; the number of ineligible households by category; and an estimate of the number of ineligible meals served by category.

Several commentors suggested that the 3,000 cap provided large School Food Authorities with an advantage over small School Food Authorities. School Food Authorities with over 100,000 applications on file would be able to verify less than three percent of its applications unlike small School Food Authorities. The Department recognizes that a certain degree of inequity existed in this approach; yet, given the workload of verifying 3,000 applications, some limits were deemed necessary. School Food Authorities exercising the three percent or 3,000 option are encouraged to address this issue in their comments on this interim rule.

October 15: Two commentors expressed some concern regarding the proposed requirement to verify applications on file by October 15. The October 15 date was initially selected because the application process has been completed in most School Food Authorities by that date. One commentor indicated that it is difficult to audit this date and recommended the "end of the second month of operation." The second commentor believed October 15 penalized schools beginning in August and recommended changing the date to "six weeks after the start of school."

As a general rule, School Food Authorities regularly determine the number of free and reduced price applications on file at the end of each month in order to compile their claims for reimbursement. In response to the commentor concerns and in order to avoid a mid-month count of applications, the Department has changed the October 15 date to October 31. This will enable School Food Authorities to use existing resources thus avoiding any duplication of effort.

Although this provision is not required for this school year, the Department urges those School Food Authorities verifying a minimum of three percent or 3,000 of the applications to determine the number of applications subject to verification based on the number approved as of October 31.

Delegating Authority: The proposed rule would have required the State agency to verify the information on the application or delegate the responsibility to all or selected School Food Authorities. Should the School Food Authority satisfy the minimum requirements, the verification deadline was January 1.

Commentors had mixed recommendations about who should conduct verification. Nine commentors believed the verification responsibility should be a local level function. Several of these commentors believed it would be too expensive to meet the requirements at the State agency level. One commentor suggested that Pub. L. 97–35 limits the verification responsibility to School Food Authorities.

Fifteen commentors suggested that School Food Authorities do not have the resources to meet the verification requirements. These commentors believed that the State agency is in the best position to verify since more resources are available at the State level and the State is in a better position to develop procedures with other agencies.

Public Law 97–35 states that "Local School Food Authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation, prescribe. * * *" The responsibility to verify clearly rests at the local School Food Authority level, although the Department and the State are also given discretionary authority by Pub. L. 97–35 to verify information on the application. Consequently, the primary responsibility to verify rests at the local level, but a State may assume the responsibility for its School Food Authorities.

This rule clarifies the proposed regulatory wording to focus the primary responsibility for verification on the local School Food Authority. The Department concurs with the School Food Authority which suggested that the State agency's primary role includes: (1) Defining acceptable methods; (2) obtaining documented approval of those methods; (3) publicizing the intent to verify; (4) arranging for the cooperation of other agencies; and (5) providing guidance on appeals and hearings. The Department does not, however, believe the State agency's role needs to be limited to these activities. Should the State agency determine that it has the resources to verify applications, it may do so.

One commenter concurred with and 23 commentors opposed the requirement that School Food Authorities complete the verification requirement by January 1. Commentors opposing this timeframe suggested that the time between the opening of school and January 1 is too short a period of time and that School Food Authorities do not have sufficient staff to meet this deadline. A number of commentors suggested timeframes other than January 1. Six commentors suggested providing a full school year, two commentors recommended March 1, and one commentor recommended April 15.

Because the opening of school varies in different States, the Department decided that a five month timeframe from the first day of school for completion of the verification requirement is the most equitable. This deadline is not in effect this school year; however, the Department urges administrators to calculate the time used for verification efforts this year and evaluate the five month timeframe for use in School Year 1983–84. Comments on this provision are welcome.

Alternate Verification Plans: Three commentors suggested that the provision to allow State agencies to formulate an alternate verification plan appears to be extraneous. These commentors recommended timeframes for review and approval. A fourth commentor recommended the establishment of criteria for the approval of alternate plans. The Department has eliminated the alternate plan provision for this school year, but has included this provision for subsequent school years. Comments are solicited on this provision.

Sample Criteria and Timing of Verification: The proposal allowed School Food Authorities to verify prior to approval of applications provided that the pursuit of verification would not unduly delay the issuance of benefits to children. One commentor concurred with the provision as proposed.

Three commentors believed insufficient time was available for verification prior to the start of the school year. Two commentors believed the "unduly delay" concept would deny benefits to children while seven other commentors requested clarification of

the timeframes covered by the term. The Department concurs with commentors' concerns regarding the potential for a delay in benefits due to verification efforts. Therefore, an application must be approved by the school if it contains the social security numbers for all adult household members, names of all household members, signature of an adult member of the family, and if the total reported household income indicates eligibility. Reference to verification prior to approval has been deleted from this rule. Schools may select the sample to be verified at the time applications are issued to parents and may request submission of income documents, such as wage stubs. However, applications must be processed based on the information on the application. Schools may later use the information submitted by parents to confirm eligibility.

Seven commentors recommended clarification of the proposed requirement to select the sample from all applications since there is no need to verify denied applications. These commentors urged inserting the word "approved" after the word "all." This has been done to clarify that verification must take place after the application approval process.

Several commentors questioned whether the Department intended the sample size to be based on the number of applications or the number of children on the applications. Since verification focuses on household income, the Department believes verification must focus on the application. In cases where one household submits a separate application for each child, the School Food Authority should make every effort to ensure that the household undergoes verification only once.

Eight commentors requested clarification of the criteria to be used for the selection of the sample. The Department intends to leave sample selection to the discretion of the verifying official.

Food Stamp Recipients: Four commentors concurred with the provision that verification of recipients of food stamp benefits *may* be limited to a review to establish that the period of eligibility is current. One commentor argued that the word "may" needs to be changed to "must" in order to reflect the legislative intent. Another commentor urged expanding the provision to encompass beneficiaries of other welfare programs. One commentor urged the Department to require food stamp offices to provide a list of food stamp recipients to schools.

Pub. L. 97-35 specified that food stamp recipients may verify their eligibility for food stamp benefits rather than provide the school with verification of income. Therefore, this interim rule requires that households selected for verification must be informed that if they are currently participating in the Food Stamp Program, they may submit proof of current eligibility for food stamp benefits in lieu of any other income information. The Department, however, does not have the legislative authority to extend this provision to other public assistance programs.

Of the eight commentors opposing this provision, four suggested that verification of food stamp eligibility is as time consuming as verification of income. The Department disagrees because the verification of food stamp eligibility would consist of a simple request for one piece of written evidence of eligibility in the case of food stamp recipients. Multiple pieces of written evidence may be required for non-food stamp households with several sources of income. Verification of eligibility for food stamps not only limits the amount of data collection, it also standardizes the request for information and is expected to lighten the administrative burden.

Section 245.6a(b) Recordkeeping

One commentor concurred with the proposed requirement for State agencies to maintain on file for review a description of the verification to be accomplished during the school year. Nineteen commentors recommended deletion of this requirement, 11 of whom suggested monitoring through the Assessment, Improvement and Monitoring System (AIMS).

Ten commentors requested clarification of the required description of verification efforts. In light of the changes in the verification requirements, this interim rule requires a description of the verification efforts to be maintained at the School Food Authority level. The description need only include: (1) A summary of the verification efforts; (2) the total number of applications on file by October 31; and (3) the percentage or number of applications verified. The verification efforts will be monitored by the State agency as part of its supervisory assistance and monitoring efforts in accordance with § 245.11(f) and § 210.14(a)(1) to develop a data base from which to make informed decisions on the verification issue.

Section 245.5a(c) Nondiscrimination

Five commentors concurred with the provision that verification efforts shall be applied without regard to race, color, sex, national origin, age, or handicap. Four commentors expressed concern that the proposal appears to encourage verification of a proportionately larger percentage of food stamp households than would a random sample.

In fact, the Department recommends a proportionately larger sample of non-food stamp households since this population has not undergone certification and the routine verification procedures that occur under the Food Stamp Program. As in the proposal, the Department provides for verification on a nondiscriminatory basis.

Section 245.6a(d) Notification

Three commentors concurred with and one opposed the requirement to notify households of a denial of benefits. The proposal required that advance notification be provided to households who receive a termination or reduction of benefits 10 calendar days prior to the actual reduction or termination. Several commentors requested clarification of the notification requirements; specifically the terms "advance notification" and "notification." Two commentors recommended clarifying "10 days" to "10 days from receipt of notification." One commentor urged use of the same notification wording as in the food stamp program (§273.13(a)(2)).

The term "notification" is defined as a notice to parents informing them of a denial of benefits. Since this interim rule clarifies that verification efforts are to take place after the application approval process, any denial of meal benefits will occur at the time of application. Therefore, reference to the notification of denial has been removed from this interim rule, since it is contained in § 245.6(b) of the interim rule, "Revised Application Procedures." However, once a household has been determined eligible for benefits, they must be given advance notice of a forthcoming loss or reduction of benefits. The term "advance notification" refers to the notice to parents sent 10 calendar days prior to a *reduction or termination* of benefits. In order to clarify the 10-day notice requirements, the rule has been reworded to clarify that the 10 day period begins on the date the notice is sent and that families must be clearly informed of the timeframe for appeal. The Department cannot accept the suggestion to start the 10 days notice from the point of receipt of notification due to the inherent monitoring problems and resultant costs.

The Department does not intend to adopt the food stamp wording regarding notice of adverse action. Given the flexibility provided in this interim rule regarding verification efforts, the Department strongly believes local

areas must have the flexibility of adapting the notice to the verification activities that occur. This section has been retitled "adverse action" in this interim rule.

Section 245.7 Hearing Official.

Two commentors concurred with and five opposed the provision to make the decision of the hearing official binding. The Department agrees that the State agency or School Food Authority has the authority to establish an appeal procedure beyond the hearing official. However, the decision of the hearing official shall be binding pending any higher level review.

Section 245.7 Continuation of Benefits.

When a household disagrees with a decision to deny, reduce or terminate its benefits, the household may appeal the adverse action. The proposal would have allowed households which have previously been approved for benefits to receive continued benefits if they appeal the adverse action within the 10 days advance notice period. Households denied benefits upon application would not receive benefits during the appeal process. One commentor concurred with and one commentor opposed this provision. The commentor opposing the provision believed benefits during the appeal process encouraged falsification of information. This interim rule implements the provision as proposed. The Department believes households should be given the opportunity to refute evidence of ineligibility before program benefits are terminated.

Miscellaneous

Two commentors recommended that USDA develop a prototype verification letter to parents. One commentor acknowledged that changes to the existing letter to parents would be required. The Department has considered these concerns and has made changes which expand the notification to parent requirements (§ 245.6a) to reflect any verification activities. The School Food Authority must notify the household that it has been selected for verification and that it must submit the requested information to confirm eligibility for free or reduced price benefits. The notice must clearly describe the types of information acceptable to the School Food Authority and must provide the name and telephone number of the school official who can assist in the verification effort should assistance be needed. The School Food Authority must also advise the household that failure to cooperate with verification efforts will result in a termination of benefits.

The Department has exempted certain schools and School Food Authorities from the verification requirements. This exemption includes: residential child care institutions; School Food Authorities in which FNS has approved claims for special cash assistance based on economic statistics regarding per capita income; and schools in which all children are served meals with no separate food service charge and no special cash assistance is claimed, such as some boarding schools. In the vast majority of these schools, the schools are not required to secure and maintain applications for children. Therefore, verification in such schools is unnecesary. School Food Authorities in which all schools participate in the Special Assistance Certification and Reimbursement Alternatives specified in § 245.9 shall meet the verification requirement only in those years in which applications are taken for all children in attendance.

As specified in the interim rule, "Revised Application Procedures," two nondiscrimination provisions became unnecessary with the issuance of this interim rule because they are stated elsewhere. Section 245.6a(d) prohibits nondiscrimination in verification activities, therefore, this rule deletes § 245.10(f) and 245.11(g).

Suggested Implementation

Procedures for the verification of the information on a free or reduced price application are currently being established by many School Food Authorities. In order to assist those School Food Authorities, the Department is making the following procedural suggestions for verification.

School Food Authorities are *not limited* to these procedures. Other approaches may be more effective depending on the resources available to the School Food Authority. These suggested approaches are offered to provide a conceptual framework for the verification process.

The Department encourages School Food Authorities to verify early in the school year after the applications have been approved. This approach will strike a balance between the administrative burdens facing schools during the first month of operation and the effort to curb abuses in the free and reduced price system.

In order to verify, the Department suggests that the School Food Authority (as applicable) adopt the following procedures:

1. Select the applications to be verified. If possible concentrate on the non-food stamp population which has not yet been subject to any verification of eligibility. Every effort should be made to ensure that each household is verified only once even if they have more than one child within the School Food Authority and have submitted multiple applications.

2. Provide notice to each household informing them that they have been selected for verification and that they must submit the requested income information in order to maintain eligibility for free and reduced price benefits. The notice should describe the information and/or documents requested, such as wage stubs or social security award letters, and should provide the name and telephone number of the school official who can assist in the verification efforts. Households must also be informed that if they are currently receiving food stamp benefits, they may submit proof of *current* eligibility for food stamp benefits in lieu of the requested information.

3. Review the information and/or documents submitted by the household:

a. If the verification process confirms eligibility for free or reduced price benefits, the household will continue to receive benefits.

b. If the requested information and/or documents cannot be obtained by the household or does not confirm income eligibility for free or reduce priced benefits, the School Food Authority may request the household to designate a collateral contact for confirmation of income eligibility. At the school official's discretion, a conference may be requested. Should the efforts to verify income information fail to confirm eligibility for the meal benefits for which the family has been approved, the School Food Authority must reduce or terminate the household's free or reduced price benefits, as applicable, in accordance with the procedures set forth in § 245.6a(e).

c. If a household fails to cooperate with efforts to verify information to confirm eligibility, the School Food Authority should terminate the household's eligibility for free or reduced price benefits in accordance with the procedures set forth in § 245.6a(e).

4. Send advance notification of a reduction or termination of benefits. The advance notice must be sent 10 days prior to the reduction or termination of benefits and must advise the household of the change, reasons for the change, notification of the right to appeal and instructions on how to appeal, and of the right to reapply any time during the school year.

5. Reduce or terminate benefits at the end of the 10 day advance notice period

unless the household appeals the action. Should the household appeal the action, benefits will continue through the appeal process.

School Food Authorities should be aware that only those applications for which confirmation of eligibility or ineligibility has occurred are considered to be verified. A household which fails to provide complete information and/or documentation for the purpose of verification is considered to have established itself as ineligible and is counted toward the School Food Authority's verification sample. Schools may always serve children free or reduced price meals if they are ineligible under Federal regulations, as long as such meals are not claimed as free or reduced price for Federal reimbursement purposes.

Solicitation of Comments

Commentors are reminded that the verification of three percent of 3,000 (whichever is less) of the approved applications on file as of October 31 is recommended rather than mandatory this school year. The practical experience gained by commentors who have implemented verification procedures will be invaluable in addressing specific provisions of this interim rule, and comments on this interim rule are encouraged as commentors gain operational experience. Of particular interest to the Department are comments regarding the five month timeframe for completion of verification activities; the techniques used to verify information; and the sample size for mandatory verification.

List of Subjects in 7 CFR Part 245

Food assistance programs, Grant programs—social programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Reporting and recordkeeping requirements.

Accordingly, Part 245 is amended as follows:

PART 245—DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

§ 245.2 [Amended]

1. In § 245.2(a–3) the phrase, "at a minimum," is removed.

2. In § 245.2 new paragraph (k) is added as follows:

§ 245.2 Definitions.

* * * * *

(k) "Verification" means confirmation of eligibility for free or reduced price benefits under the Program. At a minimum, verification shall include confirmation of income eligibility and, at State or local discretion, verification may also include confirmation of household size.

* * * * *

3. New § 245.6a is added as follows:

§ 245.6a Verification requirements.

(a) *Verification requirements.* For School Year 1982–83, School Food Authorities are encouraged to verify a minimum of three percent or 3,000 (whichever is less) of the approved free and reduced price applications on file as of October 31. For School Year 1983–84 and subsequent school years, School Food Authorities are required to verify a minimum of three percent or 3,000 (whichever is less) of the approved free and reduced price applications on file as of October 31 and to complete such verification within five months of the start of the school year in each School Food Authority. Any State may assume responsibility for verification within any of its School Food Authorities, provided that the minimum verification requirements are met within its jurisdiction. When assuming such responsibility, the State agency may request a waiver from FNS in regard to the verification requirements; Provided, that an alternate approach to achieve the same results is submitted in writing and approved by FNS.

(1) *Confirmation of income information.* Verification efforts shall not delay the approval of applications. A household must be approved if the application contains the four basic documentation factors as specified in § 245.2(a–3) and the household meets the income eligibility criteria for free or reduced price benefits. When written evidence or collateral contacts are the primary sources of information, the School Food Authority shall require the submission of income information for the most recent full month that is available. However, when using a system of records, the School Food Authority may choose a recent month to verify and the entire sample may be verified for the same month. Households which dispute the validity of income information acquired through systems of records shall be given the opportunity to produce more recent income information.

(2) *Notification of selection.* Households selected to provide verification shall be informed that they have been selected for verification and that they are required to submit the requested verification information to confirm eligibility for free or reduced price benefits. Those households shall be informed of the type or types of information and/or documents acceptable to the school and the name and phone number of a school official who can assist in the verification effort. Selected households shall also be informed that if they are currently participating in the Food Stamp Program, they may submit proof of current eligibility for food stamp benefits in lieu of income information. All households selected for verification shall be advised that failure to cooperate with verification efforts will result in a termination of benefits.

(3) *Food stamp recipients.* Verification for recipients of food stamp benefits that choose to provide evidence of food stamp participation in lieu of income information shall be limited to a review to detemine that the period of eligibility for food stamp benefits is current. If the household chooses to provide income information or the food stamp certification period is found to have expired, the household shall be subject to routine verification of eligibility.

(4) *Household cooperation.* If a household refuses to cooperate with efforts to verify, eligibility for free or reduced price benefts shall be terminated in accordance with § 245.6a(e). Households which refuse to complete the verification process and which are consequently determined ineligible for such benefits shall be counted toward meeting the School Food Authority's required sample of verified households.

(5) *Exceptions from verification.* Verification efforts are not required in residential child care institutions; schools in which FNS has approved special cash assistance claims based on economic statistics regarding per capita income; or schools in which all children are served with no separate charge for food service and no special cash assistance is claimed. School Food Authorities in which all schools participate in the Special Assistance Certification and Reimbursement Alternatives specified in § 245.9 shall meet the verification requirement only in those years in which applications are taken for all children in attendance.

(b) *Sources of information.* Sources of information for verification may include written evidence, collateral contacts, school conferences, and systems of records.

(1) *Written evidence.* Written evidence shall be used as the primary

source of information for verification. Written evidence includes written confirmation of a household's circumstances, such as wage stubs, award letters, and letters from employers. Whenever written evidence is insufficient to confirm income information on the application or current eligibility, the school may require collateral contacts.

(2) *Collateral contact.* Collateral contact is a verbal confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made by person or by phone. The verifying official may select a collateral contact if the household fails to designate one or designates one which is unacceptable to the verifying official. If the verifying official designates a collateral contact, the contact shall not be made without providing written or oral notice to the household. At the time of this notice, the household shall be informed that it may consent to the contact or provide acceptable verification in another form. If the household refuses to choose one of these options, its eligibility shall be terminated in accordance with the normal procedures for failure to cooperate with verification efforts. Collateral contacts could include employers, social service agencies, and migrant agencies.

(3) *Agency records.* Agency records to which the State agency or School Food Authority may have access are not considered collateral contacts. Information concerning income or family size maintained by other government agencies to which the State agency, School Food Authority, or school can legally gain access may be used to confirm a household's income and family size. One possible source could be wage and benefit information maintained by the State employment agency, if that information is available. The use of any information derived from other agencies must be used with the applicable safeguards concerning disclosure.

(4) *School conference.* The adult member(s) of the household may be asked to visit the school for a discussion of the information on the application.

(c) *Verification recordkeeping.* School Food Authorities verifying applications shall maintain on file for review a description of the verification to be accomplished beginning School Year 1983–84. The description shall include: (1) A summary of the verification efforts including the techniques to be used; (2) the total number of applications on file by October 31; and (3) the percentage or number of applications verified.

(d) *Nondiscrimination.* The verification efforts shall be applied without regard to race, sex, color, national origin, age, or handicap.

(e) *Adverse Action.* If verification activities fail to confirm eligibility for free or reduced price benefits or should the household fail to cooperate with verification efforts, the school or School Food Authority shall reduce or terminate benefits, as applicable, as follows: Ten days advance notification shall be provided to households that are to receive a reduction or termination of benefits, prior to the actual reduction or termination. The first day of the 10 day advance notice period shall be the day the notice is sent. The notice shall advise the household of: (1) The change; (2) the reasons for the change; (3) notification of the right to appeal and when the appeal must be filed to ensure continued benefits while awaiting a hearing and decision; (4) instructions on how to appeal; and (5) the right to reapply at any time during the school year. The reasons for ineligibility shall be properly documented and retained on file at the School Food Authority.

4. In § 245.7, new paragraph (b) is added as follows:

§ 245.7 Hearing procedures for families and School Food Authorities.

* * * * *

(b) *Continuation of benefits.* When a household disagrees with an adverse action which affects its benefits and requests a fair hearing, benefits shall be continued as follows while the household awaits the hearing and decision:

(1) Households that have been approved for benefits and that are subject to a reduction or termination of benefits later in the same school year shall receive continued benefits if they appeal the adverse action within the 10 day advance notice period; and

(2) Households that are denied benefits upon application shall not receive benefits.

§§ 245.10 and 245.11 [Amended]

5. In § 245.10, paragraph (f) is removed and in § 245.11 paragraph (g) is removed. These paragraphs are superceded by § 245.6a(d).

(Sec. 803, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C.1758))

Signed on March 15, 1983.

Mary C. Jarratt,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 83-7942 Filed 3-24-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 404]

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 March 27–April 2, 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: March 27, 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 certified 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 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 March 22, 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 is somewhat 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 910.704 is added as follows:

§ 910.704 Lemon regulation 404.

The quantity of lemons grown in California and Arizona which may be handled during the period March 27, 1983, through April 2, 1983, is established at 250,000 cartons.

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

Dated: March 24, 1983.

Charles R. Brader,

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

[FR Doc. 83-7951 Filed 3-24-83; 11:50 am]

BILLING CODE 3410-02-M

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7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Order Suspending Certain Provisions of the Order

Correction

In FR Doc. 83–6971 beginning on page 11252 in the issue of Thursday, March 17, 1983, make the following correction on that page: In the third column, the fifth complete paragraph, the fifth line, the word "elevation" should read "evaluation".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 399

[Docket No. 30222-27]

New Processing Codes for the Commodity Control List

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Commodity Control List (CCL), Supplement No. 1 to § 399.1 of the Export Administration Regulations, includes all commodities controlled for export by the U.S. Department of Commerce. Exporters must show the processing code for items they wish to export on their applications for export licenses and reexport requests, and the codes are then used internally by the Office of Export Administration (OEA) to facilitate the routing and processing of export license applications. OEA's Computer Division and the Electronic Equipment Division have been merged into one Scientific and Electronic Equipment Division, and new processing codes have been assigned. This rule, which neither expands nor limits the provisions of the Export Administration Regulations, revises the processing codes for many items listed on the CCL, and amends references to the processing codes in other Parts of the Regulations.

DATES: This rule is effective March 25, 1983. Comments must be received by the Department May 24, 1983.

ADDRESS: Written comments (six copies) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

Rulemaking Requirements and Invitation To Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

The period for submission of comments will close May 24, 1983. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of

Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

List of Subjects in Parts 373 and 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 373 and 399) are amended as follows:

PART 373—[AMENDED]

1. Paragraph (b)(4) of § 373.4 is revised to read as follows:

§ 373.4 Qualified general license.

* * * * *

(b) * * *

(4) Each application for a QGL shall be limited as follows—

(i) Processing Codes CM, CS, MT and TE: not more than 20 types of commodities or configurations;

(ii) Processing Code EE: not more than 50 types of electronic devices, sub-assemblies, assemblies, subsystems or systems.

* * * * *

PART 399—[AMENDED]

2. Paragraph (h) of § 399.1 is revised to read as follows:

§ 399.1 The Commodity Control List and how to use it.

* * * * *

(h) Processing Code.

For each ECCN on the Commodity Control List, a processing code, *i.e.*, CM, CS, EE, MT, SS, or TE, appears after the heading "PROCESSING CODE." You must show a processing code on your application for export license or reexport request, since the Office of Export Administration uses the codes to facilitate the internal routing and processing of export license applications. These processing codes stand for Chemicals and Materials (CM), Computer Systems (CS), Electronic Components and Instrumentation (EE), Microcomputers and Telecommunications (MT), Short Supply (SS), and Transportation and Capital Equipment (TE). You may enter only those ECCNS that have the same processing code on a single application for export license. (See § 372.4(d) for complete information on the inclusion of related commodities on a single application.)

* * * * *

3. The Commodity Control List, Supplement No. 1 to § 399.1, is amended by revising the two-letter "processing code" of each CCL entry to read as listed beside the applicable CCL entry below:

Group 0—Metal-Working Machinery

2018A	TE
1075A	TE
1080A	TE
1081A	TE
1086A	TE
1088A	TE
1091A	TE
1093A	TE
4094B	TE
6098F	TE
6099G	TE

Group 1—Chemical and Petroleum Equipment

1110A	TE
1118A	TE
2120A	TE
4127B	TE
4128B	TE
1129A	TE
1131A	TE
3131A	TE
1133A	TE
1142A	CM
1145A	CM
6191F	TE
6199G	TE

Group 2—Electrical and Power-Generating Equipment

1203A	TE
4203B	TE
1205A	EE
1206A	TE
3261A	TE
4261B	TE
6299G	TE

Group 3—General Industrial Equipment

1305A	TE
1312A	TE
2317A	TE
2319A	TE
3336A	TE
4337B	TE
1352A	TE
1353A	TE
1355A	EE
1356A	TE
1357A	TE
1358A	TE
4360B	TE
1361A	TE
1362A	TE
3362A	TE
3363A	TE
4363B	TE
1370A	TE
1371A	TE
6390F	TE
6391F	TE
6392F	TE
6398G	TE
5399D	TE
6399G	TE

Group 4—Transportation Equipment

2404A	TE for items in paragraphs (a), (d), and (e); CM for all other items.
2406A	CM for items in paragraph (b); TE for all other items.
5406D	TE
2409A	TE
4409B	TE
2410A	TE
1416A	TE
1418A	TE
1431A	TE
4431B	TE
5431D	TE
1460A	TE
4460B	TE
5460F	TE
6460F	TE
5460B	CM
1485A	TE
6490F	TE
6499G	TE
9499M	MT

Group 5—Electronics and Precision Instruments

1501A	EE
1502A	EE
1505A	EE
1510A	TE
5510D	TE
1514A	EE
1516A	MT
4516B	MT
1517A	MT
4517B	MT
1518A	MT
1519A	MT
1520A	MT
1521A	EE
1522A	TE for paragraphs (c) and (d); EE for all other items.
1526A	MT
1527A	MT
1529A	MT for items in paragraph (b)(6); EE for all other items.
4529B	EE
4530B	TE
1531A	EE
1532A	TE
1533A	EE
1534A	TE
1537A	EE
1541A	EE
1542A	EE
1544A	EE
1545A	EE
1547A	EE
1548A	EE
1549A	EE
1553A	EE
1555A	EE
1556A	EE
1558A	EE
1559A	EE
1560A	EE
1561A	EE
1564A	EE
1565A	MT for telephone switching systems; CS for all other items.
5565D	CS
1568A	EE
5568D	TE
4569B	EE
1570A	EE
1571A	TE
1572A	EE
1584A	EE
1585A	CM
4585B	CM
5585D	CM
1586A	EE
1587A	EE
1588A	EE
4590B	CS
4592B	TE
1595A	TE
5595D	TE
5596D	TE

4597B	MT
5597B	CM for fingerprint equipment/ analyzers/ cameras; EE for all other items.
6596F	TE
6599G	CM for photographic equipment/film, n.e.s.; EE for all other items.
7599I	CM

Group 6—Metals, Minerals and their Manufactures

4601B	CM
2603A	TE
3604A	CM
3605A	CM
3607A	CM
3608A	CM
3609A	CM
2616A	TE
1631A	CM
1635A	CM
4635B	CM
4638B	CM
1648A	CM
1649A	CM
4654B	CM
1658A	CM
1661A	CM
1670A	CM
1671A	CM
1673A	CM
4674B	CM
4675B	CM
4676B	CM
4677B	CM
4678B	CM
5680B	CM
4698B	CM
4699G	CM
6699G	CM

Group 7—Chemicals, Metalloids, Petroleum Products and Related Materials

1701A	CM
1702A	CM
4707B	CM
2708A	CM
3709A	CM
3711A	CM
1715A	CM
4720B	CM
4721B	CM
1746A	CM
4746B	CM
1754A	CM
4754B	CM
1755A	CM
4755B	CM
1757A	CM
4757B	CM
1759A	CM
1760A	CM
1763A	CM
1767A	CM
4778B	SS
6779F	CM
1781A	CM
4781B	SS
4782B	SS
4783B	SS
4784B	SS
4799B	CM
5799D	CM
6799G	CM

Group 8—Rubber and Rubber Products

1801A	CM
6899G	CM

Group 9—Miscellaneous

5994G	CM
4996B	SS
4997B	CM
4998B	CM
5998B	CM
6996F	CM
4999B	SS
5999B	CM
6999G	CM
7999I	CM
9999M	TE

(Secs. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980))

Dated: March 18, 1983.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83-7512 filed 3-24-83; 8:45 am]

BILLING CODE 3510-25-M

FEDERAL TRADE COMMISSION

16 CFR Parts 300, 301, and 303

Wool, Fur, and Textile Regulations

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission has made minor modifications to the Rules and Regulations under the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, and the Textile Fiber Products Identification Act. The amendments simplify forms used for seeking registered identification numbers and for filing continuing guaranties.

EFFECTIVE DATE: April 25, 1983.

FOR FURTHER INFORMATION CONTACT: Charles McGourty, Federal Trade Commission, Los Angeles Regional Office, Suite 13209, 11000 Wilshire Boulevard, Los Angeles, California 90024, (213) 209–7575.

SUPPLEMENTARY INFORMATION: The rule amendments simplify forms used under the textile, wool and fur labeling programs for seeking registered identification numbers and filing continuing guaranty forms. These changes eliminate unnecessary provisions and clarify the information required on each form.

Pursuant to provisions in the Wool Products Labeling Act of 1939 (15 U.S.C. 68 *et seq.*), the Fur Products Labeling Act (15 U.S.C. 69 *et seq.*) and the Textile Fiber Products Identification Act (15 U.S.C. 70 *et seq.*) manufacturers and others handling textile, wool and fur products who reside in the United States may, in lieu of listing their firm name on the product, list a registered identification number (RN). This number is issued by the Commission upon submission of a completed application form detailed in the regulations under each of the Acts.

Under these same Acts any person residing in the United States who markets or handles textile, wool or fur products may file a continuing guaranty with the Commission as a means of assuring their customers that their products are accurately labeled. Additionally, under the Textile Act a continuing guaranty may be given by a seller to an individual buyer. The continuing guaranty forms are detailed in the regulations under each of the Acts.

The current RN and continuing guaranty forms require the information to be notarized. In 1976 the Judicial Code (28 U.S.C. 1746) was amended to provide that where matters under federal law were formerly to be verified by notarization, it is now sufficient that these matters merely be sworn to without notarization. In the new forms provided by this amendment, notarization has been eliminated and forms for certification have been substituted.

The current regulations detail three different forms for the RN and three different forms for filing a continuing guaranty with the Commission. With the exception of designating which Act the continuing guaranty is filed under, all other information is the same. The Commission perceives no advantage in continuing to require use of individual forms for each Act. Consequently, the amendment provides for the use of a common form for RN applications and a common form for filing a continuing guaranty with the Commission.

Each of the new consolidated forms has been reviewed to ensure that they clearly define the information required.

The normal notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) are unnecessary for these amendments. See 5 U.S.C. 553(b)(B). The amendments are only routine or technical in nature. They simply make the rules comply with the Judicial Code and clarify the instructions necessary for filing an RN application or a continuing guarantee. Because of the routine and technical nature of the changes, the Commission does not believe a public proceeding would be beneficial.

List of Subjects

16 CFR Part 300

Labeling, Textile, Trade practices, Warranties, Wool.

16 CFR Part 301

Furs, Labeling, Sheep, Trade practices, Warranties.

16 CFR Part 303

Labeling, Textile, Trade practices.

PART 300—[AMENDED]

PART 301—[AMENDED]

PART 303—[AMENDED]

Accordingly, Parts 300, 301, and 303 of 16 CFR Chapter I are amended as set forth below.

Authority: For Part 300—15 U.S.C. 68 *et seq.*
For Part 301—15 U.S.C. 69 *et seq.*
For Part 303—15 U.S.C. 70 *et seq.*

BILLING CODE 6750-01-M

1. Sections 300.4(e), 301.26(d) and 303.20(d) are amended by substituting the following form for the current version (all other text in the affected sections is not changed):

APPLICATION FOR A REGISTERED IDENTIFICATION NUMBER

Approved by OMB
3084—0038
Expires 11/1/84

1. LEGAL NAME OF APPLICANT FIRM

2. NAME UNDER WHICH APPLICANT DOES BUSINESS, IF DIFFERENT FROM LEGAL NAME

3. TYPE OF COMPANY:

☐ PROPRIETORSHIP ☐ PARTNERSHIP ☐ CORPORATION

4. ADDRESS OF PRINCIPAL OFFICE OR PLACE OF BUSINESS *(Include Zip Code)*

5. TYPE OF BUSINESS *(Put an 'X' in all the boxes that apply)*

☐ MANUFACTURING ☐ IMPORTING ☐ WHOLESALING

☐ OTHER *(Please specify)* _____

6. LIST PRODUCTS

7. CERTIFICATION

The products listed in item six (6) above are subject to one or more of the following Acts: The Textile Fiber Products Identification Act (15 U.S.C. §§ 70-70k), The Wool Products Labeling Act (15 U.S.C. §§ 68-68j), or the Fur Products Labeling Act (15 U.S.C. §§ 69-69k). By filing this form with the Federal Trade Commisssion the company named above applies for a registered identification number to use on labels required by these Acts.

Under penalty of perjury, I certify that the information supplied on this form is true and correct.

SIGNATURE OF PROPRIETOR, PARTNER, OR CORPORATE OFFICIAL

8. NAME *(Please print or type)*	9. TITLE	10. DATE

INSTRUCTIONS

The Textile Fiber Products Identification Act, The Wool Products Labeling Act, or the Fur Products Labeling Act provide that any marketer or manufacturer of fibrous or fur products covered by those Acts may apply for a registered identification number. Companies can then use the registered identification number, instead of the name under which the Company does business, on the labels, tags, tickets, or stamps that those Acts require to be attached to covered products.

In completing this application, please observe the following:

(a) All blanks must be filled in. Include your Zip Code in item 4.

(b) In item 7 if the applicant firm is a partnership, a principal partner should sign. If a corporation, one of its principal officers should sign, giving his/her title in item 9.

(c) Send **one** completed copy to:

Federal Trade Commission
Los Angeles Regional Office
11000 Wilshire Blvd., Suite 13209
Los Angeles, CA 90024

A registered identification number (RN) issued by the Commission continues in effect until revoked. The holder of the assigned number must immediately notify the Los Angeles Regional Office in writing of any change in business status. Any change in the address of the holder's principal office and place of business must also be promptly reported.

BILLING CODE 6750-01-C

2. Sections 300.33(b), 301.48(a)(3) and 303.38(b) are amended by substituting the following form for the current version (all other text in the affected sections is not changed):

CONTINUING GUARANTY

Approved by OMB
3084–0036
Expires: 11/1/84

1. LEGAL NAME OF GUARANTOR FIRM

2. NAME UNDER WHICH GUARANTOR FIRM DOES BUSINESS, IF DIFFERENT FROM LEGAL NAME

3. TYPE OF COMPANY

☐ PROPRIETORSHIP ☐ PARTNERSHIP ☐ CORPORATION

4. ADDRESS OF PRINCIPAL OFFICE OR PLACE OF BUSINESS (*Include Zip Code*)

5. LAW UNDER WHICH THE CONTINUING GUARANTY IS TO BE FILED (*Put an 'X' in the appropriate boxes*)

☐ Under the **Textile Fiber Products Identification Act** (15 U.S.C. §§ 70-70k): The company named above, which manufactures, markets, or handles textile fiber products, guaranties that when it ships or delivers any textile fiber product, the product will not be misbranded, falsely or deceptively invoiced, or falsely or deceptively advertised, within the meaning of the Textile Fiber Products Identification Act and the rules and regulations under that Act.

☐ Under the **Wool Products Labeling Act** (15 U.S.C. §§ 68-68j): The company named above, which manufactures, markets, or handles wool products, guaranties that when it ships or delivers any wool product, the product will not be misbranded within the meaning of the Wool Products Labeling Act and the rules and regulations under that Act.

☐ Under the **Fur Products Labeling Act** (15 U.S.C. §§ 69-69k): The company named above, which manufactures, markets, or handles fur products, guaranties that when it ships or delivers any fur product, the product will not be misbranded, falsely or deceptively invoiced, or falsely or deceptively advertised, within the meaning of the Fur Products Labeling Act and the rules and regulations under that Act.

6. CERTIFICATION

Under penalty of perjury, I certify that the information supplied on this form is true and correct.

SIGNATURE OF PROPRIETOR, PRINCIPAL PARTNER, OR CORPORATE OFFICIAL

7. NAME (*Please print or type*)

8. TITLE

9. CITY AND STATE WHERE SIGNED

10. DATE

INSTRUCTIONS

The Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Fur Products Labeling Act provide that any marketer or manufacturer of fibrous or fur products or furs covered by those Acts may file a continuing guaranty with the Federal Trade Commission. A continuing guaranty on file assures customer firms that the guarantor's products are in conformance with the Act(s) under which the guarantor has filed. Customer firms rely on the continuing guaranties for protection from liability if violations occur.

In completing this form, please observe the following:

(a) All appropriate blanks on the form should be filled in. Include your Zip Code in Item 4.

(b) In Item 6, if the guarantor firm is a partnership, a principal partner should sign. If a corporation, one of its principal officers should sign, giving his/her title in Item 8.

(c) Send **two** completed copies to:

Federal Trade Commission
Los Angeles Regional Office
11000 Wilshire Blvd., Suite 13209
Los Angeles, CA 90024

Continuing guaranties filed with the Commission continue in effect until revoked. The guarantor must immediately notify the Los Angeles Regional Office in writing of any change in business status. Any change in the address of the guarantor's principal office or place of business must also be promptly reported.

DO NOT USE THIS SPACE

Filed _____ 19____

FEDERAL TRADE COMMISSION

FTC Form 31-A (rev. 12-82)

BILLING CODE 6750-01-C

3. Section 300.33(a)(2) is revised to read as follows:

§ 300.33 Continuing guaranty filed with Federal Trade Commission.

(a) * * *

(2) When filed with the Commission a continuing guaranty shall be fully executed in duplicate. Forms for use in preparing continuing guaranties will be supplied by the Commission upon request.

* * * * *

4. In § 301.48 paragraph (a)(4) is removed as repetitious of material in (a)(2) and paragraph (a)(1) is revised to read as follows:

§ 301.48 Continuing guaranties.

(a)(1) Under section 10 of the Act any person residing in the United States and handling fur or fur products may file a continuing guaranty with the Federal Trade Commission. When filed with the Commission a continuing guaranty shall be fully executed in duplicate. Forms for use in preparing continuing guaranties shall be supplied by the Commission upon request.

* * * * *

5. Section 303.37 is revised to read as follows:

§ 303.37 Form of continuing guaranty from seller to buyer.

Under section 10 of the Act, a seller residing in the United States may give a buyer a continuing guaranty to be applicable to all textile fiber products sold or to be sold. The following is the prescribed form of continuing guaranty from seller to buyer.

We, the undersigned, guaranty that all textile fiber products now being sold or which may hereafter be sold or delivered to —— are not, and will not be misbranded nor falsely nor deceptively advertised or invoiced under the provisions of the Textile Fiber Products Identification Act and rules and regulations thereunder. This guaranty effective until ——.

Dated, signed, and certified this —— day of ——, 19—, at —— (City), —— (State or Territory) —— (name under which business is conducted.)

Under penalty of perjury, I certify that the information supplied in this form is true and correct.

Signature of Proprietor, Principal Partner, or Corporate Official

Name (Print or Type) Title

6. In § 303.38 paragraph (a)(1) is revised to read as follows:

§ 303.38 Continuing guaranty filed with Federal Trade Commission.

(a)(1) Under section 10 of the act any person residing in the United States and marketing or handling textile fiber products may file a continuing guaranty with the Federal Trade Commission. When filed with the Commission a continuing guaranty shall be fully executed in duplicate. Forms for use in preparing continuing guaranties will be supplied by the Commission upon request.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-7732 Filed 3-24-83; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Rule Review Procedures; Delegation of Authority

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined that contract market rule proposals to modify the composition, computation or method of stock selection of particular indexes in which contract markets are designated to trade futures may be appropriate for automatic approval upon Commission receipt of notice of the proposals. The Commission recognizes, however, that there could be circumstances when such a modification to the terms and conditions of the contract should be reviewed by the Commission before implementation and not be deemed automatically approved. In order to permit the Commission to react as quickly as possible in such a circumstance, the Commission is adopting a rule delegating to the Division of Trading and Markets and the Division of Economics and Education the authority to determine that the proposed index change appears to require Commission review.

DATE: This rule is effective March 25, 1983.

FOR FURTHER INFORMATION CONTACT: Linda Kurjan, Assistant Director, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581; (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction: Commission Rulemaking

Several commodity exchanges have been designated by the Commission as contract markets for futures contracts on various stock indexes. The Commission notes that the composition, computation and method of stock selection of those underlying indexes are often modified by the index originators. Because of the recent changes effected by the Futures Trading Act of 1982, such modifications technically are changes in the terms and conditions of the corresponding contracts requiring submission to and approval by the Commission under section 5a(12) of the Commodity Exchange Act before implementation by the contract markets.[1]

The Commission has found that the modifications made by the index originators generally are routine and minor in nature. Moreover, the contract markets in many instances are given notice of the changes shortly before they are made effective by the entities from which the indexes originate. Consequently, the Commission has determined that, unless it notifies the contract market by the fastest means of communication available that a proposed change is not appropriate for automatic approval, changes in these contracts[2] resulting from routine changes in the underlying index will be deemed approved upon receipt. If the Commission determines that such a proposed rule change is not appropriate for automatic approval and so notifies the contract market, the rule proposal would become subject to review under section 5a(12) and Commission regulation 1.41(b).[3] In order to react as

[1] 7 U.S.C. 7a(12) (Supp. V 1981) as amended by Futures Trading Act of 1982, Pub. L. No. 97-444, section 216(2), which requires every contract market to submit to the Commission for prior approval all rules "that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market." The phrase "terms and conditions" is defined at 17 CFR 1.41(a)(2) (48 FR 4256 (January 28, 1983)).

[2] The Commission first determined to implement this policy concurrent with its designation of the Chicago Mercantile Exchange's Standard & Poor's Consumer Staple Index Futures Contract, designated by the Commission on February 22, 1983. As noted below, however, the Commission is notifying three other contract markets presently designated in stock index futures of the new policy concerning modification of the underlying indexes.

[3] Before the recent amendment of section 5a(12) on January 11, 1983, by the Futures Trading Act of 1982, contract market rule proposals relating to contract terms and conditions were required to be submitted to the Commission as they are now, but the Commission had the authority to exempt proposals that were operational and administrative in nature from the requirement that approval be obtained before implementation. Accordingly, the Commission addressed the issue of index modification by treating the rule changes in the stock index contracts it designated at that time as

expeditiously as possible to contract market submissions implementing index modifications wherever the Commission has provided for that automatic approval, the Commission is delegating to the Division of Trading and Markets and the Division of Economics and Education the authority to determine whether such a contract market proposal requires Commission review prior to implementation.[4] New regulation 1.41b has been adopted for this purpose.

II. Basis for Immediate Adoption of Regulation

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), normally requires that a notice of proposed rulemaking be published in the Federal Register and that opportunity for public comment be provided when an agency promulgates new regulations. Section 553(b) provides an exception to this requirement, however, when the regulations being adopted are rules of agency organization, procedure and practice. Adoption of a rule delegating authority as described in this notice falls within that exemption. Moreover, since the rule merely continues a previously existing practice pursuant to a Commission regulation, the Commission believes there is good cause for its actions consonant with the public interest. Accordingly, the Commission is promulgating regulation 1.41b as a final rule to be effective upon publication in the Federal Register.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")[5] requires that agencies, in proposing rules, consider their impact on small businesses. Section 3(a) of the RFA defines the term "rule" to mean "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title . . . for which the agency provides an opportunity for notice and public comment."[6] As the adoption of § 1.41b announced in this Notice has not been effected pursuant to 5 U.S.C. 553(b), then § 1.41b is not a "rule" as defined in the RFA and the analysis or certification specified in that Act does not apply.

List of Subjects in 17 CFR Part 1

Commodity exchanges, Contract market rules.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 5a(12) and 8a(5) thereof, 7 U.S.C. 7a(12) and 12a(5), as amended by Pub. L. 97-444, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations by adding § 1.41b as follows:

PART 1—[AMENDED]

§ 1.41b Delegation of Authority to the Directors of the Division of Trading and Markets and the Division of Economics and Education.

The Commission hereby delegates, until it orders otherwise, the following authority to the Directors of the Division of Trading and Markets and the Division of Economics and Education, to be exercised by either such Director or by such other employee or employees of the Commission under the supervision of such Director as may be designated from time to time by the Director: Pursuant to § 1.41(b), to determine whether a contract market rule proposal which modifies the composition, computation or method of stock selection of a stock index in which the contract market is designated to trade futures, or options upon such futures, appears to require review by the Commission under section 5a(12) of the Act as a term or condition in a contract of sale to be executed on or subject to the rules of the contract market prior to implementation. A determination that such a rule proposal requires review as a term or condition may be made where the Commission previously has determined, upon designation or at such other time, that rule changes relating to the composition, computation or method of stock selection of a stock index may be appropriate for automatic approval upon Commission receipt of the proposal. Notice of any such determination will be provided to the applicant contract market by fastest available means of communication.

Issued in Washington, D.C., on March 18, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-7847 Filed 3-24-83; 8:45 am]

BILLING CODE 6351-01-M

"operational and administrative" under former regulation 1.41(c), 17 CFR 1.41(c) (1982), until notifying the respective contract markets otherwise. The Futures Trading Act of 1982 eliminated the "operational and administrative" exemption, and the correlative regulation has since been deleted. 48 FR 4256 (January 28, 1983).

[4] Because of the short notice which the contract markets typically receive of such changes in the stock indexes, the Commission expects the contract markets to notify it of such changes by the fastest available means of communication and, in any event, before trading in futures on the index as modified commences.

[5] Pub. L. 96-354, 94 Stat. 1164 (1980), 5 U.S.C. *et seq.*

[6] 5 U.S.C. 601(2). In addition, the Commission notes that this rule does not constitute a new paper collection requirement within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*

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17 CFR Parts 1 and 33

Domestic Exchange Traded Commodity Options; Expansion of Pilot Program To Include Options on Physicals

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of effective date of certain final rules.

SUMMARY: On December 22, 1982, the Commodity Futures Trading Commission ("Commission") published in the Federal Register final rules authorizing the trading of options on physical commodities on domestic boards of trade designated by the Commission to conduct trading in such options. 47 FR 56996. The Commission further indicated, however, that some of those rules would not become effective until the expiration of 30 calendar days of continuous session of Congress after the transmittal of those rules and related materials to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and the publication in the Federal Register of a notice of the effective date of those rules.

The Congressional review period specified in Section 4c(c) of the Commodity Exchange Act (7 U.S.C. 6c(c)) has now expired. Accordingly, the Commission hereby provides notice that the amendments to §§ 1.3(ll), 33.4, 33.6, and 33.7 (except §§ 33.7 (b)(2)(viii), (c), and (d)) of its regulations, as published at 47 FR 56996, December 22, 1982, are effective immediately.

EFFECTIVE DATE: March 25, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Assistant Chief Counsel, or Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW.,

Washington, D.C. 20581. Telephone: (202) 254–8955.

Issued in Washington, D.C. on March 18, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-7706 Filed 3-24-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 4, 5, 16 and 131

[Docket No. RM80-39-000]

Regulations Governing Application for License for Major Unconstructed Projects and Major Modified Projects; Application for License for Transmission Lines Only; and Application for Amendment To License; Correction

Issued March 21, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; Correction.

SUMMARY: This document corrects an omission in the amendatory language of a final rule issued on November 6, 1981, by the Federal Energy Regulatory Commission (Commission), Docket No. 80–39–000, 46 FR 55926 (Nov. 13, 1981). The rule concerns regulations governing certain hydroelectric license applications. The preamble of the final rule declared that the rule was removing 18 CFR 131.30 from the Commission's regulations. The amendatory language necessary to remove § 131.30 was mistakenly omitted from the final rule. This document corrects that omission by removing § 131.30 from the Commission's regulations.

FOR FURTHER INFORMATION CONTACT: Joseph H. Long, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

PART 131—[AMENDED]

Accordingly, the Commission amends 18 CFR Part 131, as follows:

§ 131.30 [Removed]

Part 131 is amended by removing § 131.30.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7731 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 83-78]

Vessels in Foreign and Domestic Trades

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to add Spain to the list of nations which permit vessels of the United States to transport certain articles specified in section 27, Merchant Marine Act of 1920, as amended, between their ports.

The Department of State has furnished satisfactory evidence that Spain places no restrictions on the transportation of certain specified articles by vessels of the United States between ports in that country. This amendment provides reciprocal privileges for vessels registered in Spain.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Harold Singer, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883) (the "Act"), provides generally that no merchandise shall be transported by water, or by land and water, between points in the United States except in vessels built in and documented under the laws of the United States and owned by U.S. citizens. However, the Act, as amended by Pub. L. 89–194 (79 Stat. 823, T.D. 66–167) and 90–474 (82 Stat. 700, T.D. 68–227), provides that upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the United States will not apply to its vessels.

Section 4.93(b)(1), Customs Regulations (19 CFR 4.93(b)(1)), lists those nations found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Section 4.93(b)(2), Customs Regulations (19 CFR 4.93(b)(2)), lists those nations found to grant reciprocal privileges to vessels of the United States for the transportation of equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and certain equipment for use with these barges; certain empty instruments of international traffic; and certain stevedoring equipment and material.

On February 7, 1983, the Department of State advised the Secretary of the Treasury that, effective February 1, 1983, Spain places no restrictions on the transportation of the articles listed in the Act by vessels of the United States between ports in Spain.

By Treasury Department Order 165–25 the Secretary of the Treasury has delegated authority to the Commissioner of Customs to prescribe regulations relating to sections 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations, (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f)). These sections relate to lists of nations entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the United States. Subsequently, by Customs Delegation Order No. 66 (T.D. 82–201), dated October 13, 1982, the Commissioner delegated this authority to the Assistant Commissioner (Commercial Operations). Authority to grant this exemption and to amend these sections was delegated from the Assistant Commissioner (Commercial Operations), to the Director, Office of Regulations and Rulings, who then re-delegated this authority to the Director, Regulations Control and Disclosure Law Division.

Finding

On the basis of the information received from the Secretary of State, as described above, it is determined that the Government of Spain places no restrictions on the transportation of the articles specified in section 27 of the Merchant Marine Act of 1920, as amended, by vessels of the United States between ports in Spain. Therefore, reciprocal privileges are accorded to vessels registered in Spain as of February 1, 1983.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Maritime carriers, Vessels.

Regulations Amendments

To reflect the reciprocal privileges granted to vessels registered in Spain, Part 4, Customs Regulations (19 CFR

Part 4), is amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Sections 4.93 (b)(1) and (b)(2), Customs Regulations (19 CFR 4.93 (b)(1), (b)(2)), are amended by adding "Spain" in appropriate alphabetical order to the list of nations entitled to reciprocal privileges.

(R.S. 251, as amended, sec. 27, 41 Stat. 999, as amended, sec. 624, 46 Stat. 759, sec. 14, 67 Stat. 516, Pub. L. 89-194, 79 Stat. 823, Pub. L. 90-474, 82 Stat. 700 (5 U.S.C. 301, 19 U.S.C. 1322(a), 1624, 46 U.S.C. 883))

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this is a minor amendment in which the public is not particularly interested and there is a statutory basis for the described extension of reciprocal privileges, notice and public procedure pursuant to 5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required because this amendment grants an exemption.

Inapplicability of Regulatory Flexibility Act

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

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: March 21, 1983.

B. James Fritz,

Director, Regulations Control & Disclosure Law Division.

[FR Doc. 83-7758 Filed 3-24-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Delegations to Chiefs of Station Offices

Correction

In FR Doc. 83-5087 beginning on page 8439 in the issue of Tuesday, March 1, 1983, make the following correction on page 8440: In the first column the third paragraph under **SUPPLEMENTARY INFORMATION,** the fourth line, the CFR citation should read "21 CFR 601.41".

BILLING CODE 1505-01-M

21 CFR Part 177

[Docket No. 82F-0026]

Indirect Food Additives: Polymers; High-Temperature Laminates

Correction

In FR Doc. 83-50 beginning on page 236 in the issue of Tuesday, January 4, 1983, make the following corrections:

On page 236, first column, last paragraph, first line, "§ 177.1" should read "§ 171.1"; third column, in the authority citation, "202" should read "201".

BILLING CODE 1505-01-M

21 CFR Part 529

Certain Other Dosage Form New Animal Drugs Not Subject to Certification; Amikacin Sulfate Intrauterine Solution

Correction

In FR Doc. 83-5840, beginning on page 9639 in the issue of Tuesday, March 8, 1983, on page 9640, in the first column, the "Effective date" line should read "*Effective date.* March 8, 1983."

BILLING CODE 1505-01-M

21 CFR Part 558

New Animal Drugs in Animal Feeds; Hygromycin B

Correction

In FR Doc. 83-5839 appearing on page 9640 in the issue of Tuesday, March 8, 1983, in the second column in the **"SUPPLEMENTARY INFORMATION"** paragraph, in the fourth line, "NADA 132-616" should read "NADA 132-916".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7877]

Income Tax; Taxable Years Beginning After December 31, 1953; Filing of Life-Nonlife Consolidated Returns

Correction

In FR Doc 83-6975 beginning on page 11436, in the issue for Friday, March 18, 1983, make the following correction:

On page 11450, second column, the file line should have read as follows:

"[FR Doc. 83-6975 Filed 3-14-83; 4:57 pm]

BILLING CODE 4830-01-M"

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 270

Rural Community Fire Protection

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The Forest Service is removing the existing regulations at 36 CFR Part 270 which provide instructions to those who administer and receive grants through the Rural Community Fire Protection program. Part 270 is an unnecessary duplication of Department of Agriculture regulations at 7 CFR Part 3015, USDA Uniform Federal Assistance Regulations.

EFFECTIVE DATE: March 25, 1983.

FOR FURTHER INFORMATION CONTACT: Francis Russ, Cooperative Fire Protection Staff, Forest Service, USDA, P.O. Box 2417, Room 1001 RP-E, Washington, DC 20013, 703-235-8023.

SUPPLEMENTARY INFORMATION: The subject regulations were issued April 21, 1975, as direction to the State Foresters for conducting the pilot Rural Community Fire Protection program. This program was authorized by Title IV of the Rural Development Act of 1972

(Pub. L. 92–419). Subsequently that title was repealed by the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106), which consolidates the authority for all cooperative forestry programs. Section 7 of the Act, entitled Rural Fire Prevention and Control, contains the cooperative fire programs.

36 CFR Part 270 is no longer relevant to the current cooperative fire assistance programs. The proposed rule would remove the regulations from the Code of Federal Regulations. There is no need to issue new regulations since adequate assistance guidelines for all cooperative forestry programs are given in 7 CFR Part 3015, USDA Uniform Federal Assistance Regulations.

The Catalog of Federal Domestic Assistance number of the program to which the existing regulation is applicable is 10.664, Cooperative Forestry Assistance.

This rule has been reviewed under USDA regulatory review procedures and Executive Order 12291. It has been determined that this action is not a major rule and does not require a regulatory impact analysis since it merely eliminates unnecessary duplication and will have no effect on the economy. For the same reason, this action will not affect costs, prices, competition, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this action will not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq).

In accordance with the exceptions to rulemaking procedures in 5 U.S.C. 553 and Department of Agriculture policy (36 FR 13804), it has been found and determined that advance notice and request for comments are unnecessary.

List of Subjects in 36 CFR Part 270

Fire prevention, Grant programs, Intergovernmental relations, Rural areas, Technical assistance.

Therefore, for the reasons set out in the preamble, 36 CFR Part 270 Rural Community Fire Protection is hereby removed.

John B. Crowell, Jr.,

Assistant Secretary for Natural Resources and Environment.

[FR Doc. 83-7717 Filed 3-24-83; 8:45 am]

BILLING CODE 3410-11-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 68]

Special Types and Methods of Procurement: Acquisition of Leasehold Interests in Real Property

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation prescribes policies and procedures for the leasing of real property (space) by agencies pursuant to individual agency authority and authority delegated by the General Services Administration. The bases for the regulation are sections 201(a) and 205(c) of the Federal Property and Administrative Services Act of 1949. The intended effect is to establish a uniform regulation for the leasing of real property (space).

EFFECTIVE DATE: This regulation is effective April 18, 1983 or may be observed earlier, and will continue in effect until April 18, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202–523–4755).

SUPPLEMENTARY INFORMATION: In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter.

Federal Procurement Regulations Temporary Regulation 68

To: Heads of Federal agencies.

Subject: Leasing of real property (space)

March 14, 1983.

1. *Purpose.* This temporary regulation prescribes policies and procedures for the acquisition of leasehold interests in real property (space) by Federal agencies.

2. *Effective date.* This regulation is effective April 18, 1983 or may be observed earlier.

3. *Expiration date.* This regulation expires on April 18, 1985.

4. *Background.*

a. Policies and procedures on the acquisition of leasehold interests in real property (space) previously have been prescribed in the Federal Property Management Regulations (FPMR) for application to GSA. In addition to the lease contracts awarded by GSA, certain agencies have individual authority to enter into lease contracts and other agencies have received delegations of authority to enter into lease contracts. This temporary regulation provides necessary guidance.

b. The Federal Procurement Regulations (FPR) concern the procurement of personal property and non-personal services. The term procurement (see § 1–1.209) includes leasing.

c. Section 1–1.004-4 of the FPR provides that the regulation applies to leasehold interests in real property only to the extent explicitly specified throughout the FPR. This temporary regulation makes some additional provisions applicable to leases.

5. *Applicability.* a. The provisions of this temporary regulation apply to the procurement of leasehold interests in real property by civilian executive agencies that are subject to Title III of the Federal Property and Administrative Services Act of 1949 and by DOD, Coast Guard, and NASA, pursuant to Title 10, Chapter 137, U.S.C. within the United States, its possessions and the Commonwealths of Puerto Rico, Guam, and the Trust Territories of the Pacific. Agencies that lease real property pursuant to the requirements of this temporary regulation include those that have their own independent leasing authority and that receive delegations of authority to lease real property (space) from GSA. This regulation is issued pursuant to the authority in 40 U.S.C. 481(a) and 486(c).

b. The acquisition of leasehold interests in real property by eminent domain or donation are not covered by this temporary regulation since the FPR is limited to procurement transactions as defined in § 1–1.209.

6. *Definitions.* The terms used in this temporary regulation have the following meanings:

a. "Leasehold interest in real property" means a contract which involves the relationship of landlord and tenant and grants the Government the right of exclusive possession of real property for a definite period (hereinafter "lease").

b. "Lessor" or "landlord" means any individual, firm, partnership, trust, association, or other legal entity which leases property.

c. "Acquisition" for the purpose of this regulation means the acquisition by lease, of the right to use certain privately owned space and to receive services such as heat, air-conditioning, light and janitor services furnished by the lessor (landlord).

d. "Solicitation for offers (SFO)" means invitation for bids and requests for proposals.

e. "Fair market value (FMV)" means the highest monetary price that a property will bring if offered for sale in the open market by a seller who is willing but not obliged to sell. This offer allows a reasonable time to find a buyer who is willing but not obliged to buy, when both parties have full knowledge of all the uses to which rental property is adapted and for which it is capable of being used.

f. "Fair Market Value for Leasing Purposes (FMVLP)" means the value of a whole or part of a property to be leased by the Government, which is determined for purposes of the lease on the basis of the FMV.

g. "Overall net return" means the ratio of the net income to the lessor, before depreciation charges and taxes, to the cost of the property.

h. "Rent or rental" as used in the Economy Act means the consideration paid for the use of leased property, exclusive of the value of any special services such as heat, light, and

janitor services which may be furnished under the lease.

i. "Rent and related services" means the consideration paid for the use of leased property plus the costs of operational services, such as heat, light, and janitor services whether furnished by the lessor, the Government, or both.

j. "Fair annual rental (FAR)" means the annual monetary amount which reasonably can be expected for the agreed use of real property by lease, as established by competition in the rental market and by an appraisal. If market information is unavailable, it is the annual amount which will amortize the value of the remaining capital investment, plus a fair rate of interest return during the remaining useful life of the rented property.

k. "Small business" means a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of leasing commercial real estate and has 500 employees or less (13 CFR 121.3–8).

7. *Agency procedures.* a. *Competition.* Contracts involving leases of real property (space) shall be effected on a competitive basis (formal advertising or negotiation) to the maximum practical extent. This shall include the obtaining of offers from the maximum number of qualified sources of space available which meet the minimum requirements of the Government.

b. *Formal advertising.* The use of formal advertising in connection with the leasing of real property is generally not feasible, unless a building site has been preselected and a building is to be constructed on the site in accordance with Government furnished plans and specifications for lease to the Government. When procuring by formal advertising, the provisions of Part 1–2 shall be followed.

c. *Sole-source.* Sole-source acquisitions of leased space shall be held to the smallest number practicable and shall be justified in writing by the head of the agency or his designee.

d. *Authority to negotiate.* The authority to negotiate leasehold interests in real property (space) is in 41 U.S.C. 252(c)(10). This authority provides for negotiation where it is impracticable to secure competition by formal advertising. However, other negotiation exceptions are available as follows: public exigencies, 41 U.S.C. 252(c)(2); small purchases, 41. U.S.C. 252(c)(3); and as otherwise authorized by law, 41 U.S.C. (c)(15). For DOD, NASA and the Coast Guard, the parallel provisions in 10 U.S.C., Chapter 137 apply.

e. *Findings and determinations.* The negotiation exception utilized in the acquisition of leasehold interests in real property (space) shall be supported by findings and determinations (F&D) as provided in FPR Subpart 1–3.301 and the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)) and the corresponding provisions of title 10, Chapter 137 and the Defense Acquisition Regulation. The F&D that is executed to justify the use of negotiation shall be made a permanent part of the lease file. The market survey and all other relevant facts should serve as support for the F&D.

f. *Authority to lease.* (1) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(h)(1)), as amended, and section 1 of Reorganization Plan No. 18 of 1950 (40 U.S.C. 490, Note) authorizes the Administrator of General Services to:

(a) Acquire leasehold interests in real property (space) for use by Federal agencies (the authority is limited to leases for buildings and improvements that do not bind the Government for periods in excess of 20 years); and

(b) Delegate leasing authority to the heads of other agencies.

(2) Agencies which have statutory authority to acquire leasehold interests in real property shall do so pursuant to the provisions of Title III of the Federal Property and Administrative Services Act of 1949 (certain civilian executive agencies) and Title 10, Chapter 137 U.S.C. (DOD, NASA and Coast Guard). This temporary regulation applies to those acquisitions.

g. *Applicable laws and Executive orders.* The contracting officer is responsible, to the extent applicable, for ensuring compliance with the following laws and Executive orders.

(1) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) The Public Buildings Act of 1959 (40 U.S.C. 606).

(3) Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 490 et seq.).

(4) The Rehabilitation Act Amendments of 1974 (29 U.S.C. 701 et seq.).

(5) Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(6) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(7) Small Business Act (15 U.S.C. 631 et seq.).

(8) Executive Order 11988, May 25, 1977—Floodplain Management.

(9) Executive Order 11990, May 25, 1977—Protection of Wetlands.

(10) The Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157).

(11) The Clean Air Act (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

h. *Market surveys.* (1) Market surveys shall be made for all lease acquisitions of space and shall include:

(a) Information on the availability of space through the use of circulars or newspaper advertisements and consultations with realtors, brokers, owners, and others, as appropriate;

(b) Inspections of all offered and other available locations which meet the minimum requirements regarding quantity, quality, availability, and probable cost; and

(c) Documentation of the survey findings for each location inspected, including the reasons for unacceptability and identity of the interested parties that receive a solicitation for offers.

i. *Advertising.* (1) All new leases for 10,000 or more square feet of space shall involve public advertising for offers, e.g., newspapers and periodicals unless the contracting officer determines that such advertising will not serve to promote competition.

(2) When the Government proposes to lease a building to be constructed on a preselected site, the proposed acquisition shall be publicized (synopsized) in the Commerce Business Daily (CBD) at least 10 days prior to issuance of the SFO in accordance with Subpart 1–1.1003.

(3) Copies of each SFO shall be maintained at the issuing office until an award has been made. They shall be made available, upon request, to all individuals and firms having an interest.

j. *Solicitations for offers (SFOs).* The SFO is the basis for the entire lease negotiation process and shall be a part of the lease. SFOs shall contain the information necessary to enable the prospective offeror to prepare a proposal. SFOs shall contain a description of the space, specifications, delivery schedule, special provisions, and contract clauses. SFOs shall specify a date for the submission of offers. Any extension of time granted to one offeror shall be granted uniformly to all offerors. The initial release of SFOs normally shall be made to all prospective offerors at the same time.

(1) For leases exceeding 10,000 square feet:

(a) SFOs shall be in writing;

(b) SFOs shall contain the minimum requirements of the Government; and

(c) SFOs shall include the provisions set forth in Subpart 1–16.6 Forms of Leases for Real Property and the following provisions:

(i) Subcontracting (with small businesses) under Federal contracts (FPR Temporary Regulation 50, Supplement 3, June 18, 1982, 47 FR 27859, June 28, 1982);

(ii) Subcontracting with women's business enterprises under Federal contracts (FPR Temporary Regulation 54, Supplement 1, June 18, 1982, 47 FR 27860, June 28, 1982);

(iii) Contract disputes (FPR Temporary Regulation 55, Supplement 1, July 21, 1982, 47 FR 33693, August 4, 1982);

(iv) Accommodations for the physically handicapped (GSA's Accessibility Standard, dated October 14, 1980, or other Standard as applicable);

(v) Energy conservation (see 41 CFR 101–20.116–2 and 101–20.116–3);

(vi) Accident and fire prevention in accordance with agency standards;

(vii) Preaward Equal Opportunity Compliance Review (see 1–12.805–5 and FPR Temporary Regulation 19, September 15, 1970, 35 FR 14747); and

(viii) Description of method used to measure space.

(d) Offers will only be considered for the initial lease term unless otherwise specified.

(e) Offerors shall be required to submit offers on an annual square foot rate basis on GSA Form 1364 Proposal to Lease Space to the United States of America, or similar form, for the amount of space offered (see paragraph 9).

(f) (i) Offers will be evaluated on the basis of the lowest annual price per square foot cost to the Government for the amount of space offered and other award factors as stated in the SFO.

(ii) When different types of space are solicited, the lowest offer as to price will be determined on the basis of the composite square foot rate per year for the total amount of space offered.

(g) When lump sum payments for initial tenant alterations are solicited, the lowest offer as to price will be determined by adding to the annual square foot rate (or the composite square foot rate) the result of the lump sum amount amortized over the term of the lease (i.e., divided by number of years in the term) divided by the square footage offered.

(h) In the evaluation of offers, the following award factors may be employed to determine which offer(s) is most advantageous to the Government.

(i) First priority to offers which meet the requirements (for the handicapped) contained in the applicable Accessibility Standard.

(A) If no offer fully meets the requirements, offers which substantially meet the requirements.

(B) If no offer substantially meets the requirements, awards consistent with the other requirements of the solicitation, with due consideration to the extent offers can meet accessibility standards for entrances, elevators, toilets, and water fountains.

(ii) Susceptibility of the design of the space offered to efficient layout and good use.

(iii) Effect of environmental factors on the efficient and economical conduct of agency operations planned for the space and the safety of the visitors and occupants.

(iv) Earliest delivery date.

(v) Consistency, if a proposed development is involved in the location offered, with State, regional, and local plans and programs.

(vi) Availability of public transportation and parking spaces.

(vii) Availability of adequate food service facilities, either in the building in which the space offered is located or within reasonable walking distance as determined by the Government (normally the Government lunch period does not exceed 30 minutes).

(i) Contracting officers, acting within the scope of their appointments, are the exclusive agents of their respective agencies to enter into and administer leases on behalf of the Government in accordance with agency procedures. Each contracting officer is responsible for performing, or having performed, all administrative actions necessary for effective contracting.

(j) (i) Negotiations will be conducted with all offerors that are within the competitive range provided awards are not made without oral discussion, i.e., that are acceptable or can be made acceptable in terms of price and technical requirements.

(ii) Offerors, as a minimum, will be given an opportunity to modify their offers.

(k) Offerors that do not meet minimum requirements after the initial negotiation will be notified and dropped from further consideration.

(l) A best and final offer shall be requested from each offeror in writing and shall include an established cutoff date.

(m) Further negotiations will not take place after the cutoff date, unless negotiations are conducted with all offerors and the procedures in paragraph (l) are repeated. Information regarding the transaction will not be furnished to offerors until after the contract is awarded.

(2) For leases involving less than 10,000 square feet:

(a) SFOs need not be prepared or issued (The market survey is the most crucial aspect of the small lease program. In these actions, a comprehensive market survey is usually sufficient to provide information on available properties that meet minimum requirements);

(b) Although no SFO is issued, the contracting office must comply with the applicable provisions regarding:

(i) Subcontracting (with small business) under Federal contracts (FPR Temporary Regulation 50, Supplement 3, June 18, 1982, 47 FR 27859, June 28, 1982);

(ii) Subcontracting with women's business enterprises under Federal contracts (FPR Temporary Regulation 54, Supplement 1, June 18, 1982, 47 FR 27860, June 28, 1982);

(iii) Contract disputes (FPR Temporary Regulation 55, Supplement 1, July 21, 1982, 47 FR 33693, August 4, 1982);

(iv) Accommodations for the physically handicapped (GSA's Accessibility Standard, dated October 14, 1980, or other standard as applicable);

(v) Energy conservation (see 41 CFR 101–20.118);

(vi) Accident and fire prevention (see 41 CFR 101–20.109);

(vii) Preaward Equal Opportunity Compliance Review (see § 1–12.805–5 and FPR Temporary Regulation 19, September 15, 1970, 35 FR 14747).

(c) Contract clauses and specifications that are negotiated for services or special requirements shall be included in the lease package; and

(d) Appraisals of the fair annual rental shall be completed on GSA Form 1241–E, In-Lease Appraisal or similar form, based upon information gathered during the market survey.

(3) (a) When changes occur in the Government's requirements (either before or after receipt of proposals), the solicitation shall be amended in writing.

(b) When timeliness is essential, oral information regarding modifications may be given if:

(i) The modifications are not complex;

(ii) A record is made of the oral information;

(iii) All firms to be notified are given notice, on the same day if possible; and

(iv) The oral information is promptly confirmed by a written amendment.

(c) When modifications in space requirements occur, the following procedures apply.

(i) If proposals are not yet due, amendments shall be sent to all firms solicited.

(ii) If the time for receipt of proposals has passed, but proposals have not yet been evaluated, the amendments shall be sent to the concerns that submit offers.

(iii) If a modification is so substantial that it requires a complete revision of the solicitation, the solicitation shall be canceled and a new solicitation issued. New solicitations shall be issued to all concerns solicited originally, any concerns added to the original mailing list, and any other qualified concerns.

(4) (a) The evaluation of offers section of the SFO shall provide for the evaluation of offers:

(i) On the basis of dollars per square foot offered, and

(ii) Other award factors.

(b) All offerors must be made aware of the basis on which the award will be made by:

(i) Stating the specific award factors related to valid agency requirements, and

(ii) Applying the factors as objectively as possible to each offer.

(5) SFOs shall include the time fixed receipt of offers (see § 1–1.304).

k. *Renewal of leases.* (1) *Notification.* When a contracting officer determines that it is in the best interest of the Government to continue to lease a property, the lessor shall be notified, however, the procedures in paragraphs 7(c)-(g), (h) and (m)(1)(2) shall be followed.

(2) *Market survey.* (a) When the right to renew a lease exists, a renewal shall be based on a market survey and other applicable considerations.

(b) Surveys should focus on the prevailing rental rates for comparable space.

(3) *Reappraisal.* (a) To ensure that the rental to be paid during the renewal period will not exceed the appraised fair annual rental value (FAR) or that the net rent will not exceed the 15 percent limitation imposed by the Economy Act, consideration shall be given to the desirability of updating the original appraisal. The 15 percent Economy Act rent limitation does not apply to leases awarded on or after October 1, 1981.

(b) the updating of an original appraisal may be accomplished by means of a memorandum, unless it is obvious that sufficient changes have occurred to warrant a new appraisal.

(3) *Cancellation.* When a determination is made that a lease which has an automatic renewal clause is no longer required, the lessor will be notified in writing that the lease has been canceled.

(4) *Succeeding lease.* (a) When the right to renew a lease does not exist, an effort to continue the occupancy may be made by negotiating a succeeding (new) lease when the contracting officer determines that:

(i) The occupant agency has a continuing need for the space and proposes no significant change in the amount of space required;

(ii) The agency is satisfied with the space and proposes no substantial alterations;

(iii) The market survey indicates that the negotiated rental for the proposed succeeding lease is fair and reasonable;

(iv) A succeeding lease is in the best interest of the Government after due consideration of the prices of other available properties, relocation costs (including estimated moving costs and the estimated cost of alterations beyond those to be required in the existing space, amortized over the firm term of the lease), and other appropriate considerations; and

(v) A succeeding lease meeting all legal requirements can be negotiated.

(b) When a succeeding lease involves a noncompetitive award, the determination to contract on that basis shall be justified in writing.

(c) For succeeding leases of 10,000 square feet or less, the requirement for a market

survey will be satisfied by three telephone contacts with firms or individuals having space available for lease, or recently leased to others.

(5) *Supplemental agreements.* Supplemental lease agreements (GSA Form 276) should be limited to the amendment of existing leases which involve the acquisition of additional space or partial release of space, revisions in the terms of a lease, rental payments, payments for overtime services, and restoration settlements.

(6) *Expansion requests.* (a) When the Government is currently housed in a building under a firm term lease with time remaining and has a valid expansion need, the following criteria shall be used to determine whether it is prudent to satisfy a total requirement through a relocation.

(b) To identify availability of suitable alternative locations, market surveys shall be conducted. If the market survey reveals alternate locations which can satisfy the total requirement, an analysis shall be performed to determine whether it is in the Government's best interest to relocate. This analysis should include:

(i) The cost of the alternate space compared to the cost of expanding at the existing location;

(ii) The cost of moving; and

(iii) The cost of the unexpired portion of the firm term lease (unless a buy out or termination is possible, in which case the actual cost of such an action should be used).

(c) If no suitable alternative location is available, a noncompetitive lease may be negotiated with the current lessor to provide contiguous expansion space by supplemental lease agreement, provided the original lease term is not extended.

l. *Superseding leases.* Consideration shall be given to the execution of a superseding lease which would replace the existing lease when the changes or modifications contemplated are so numerous or detailed as to cause complications, or would substantially change the present lease.

m. *Conduct of Negotiations.* (1) Negotiations shall be confidential and shall reflect complete agreement on all items of the offer and all terms and conditions of the lease contract.

(2) A written negotiation record shall be placed in the permanent lease file.

(3) (a) An abstract of final offers shall be prepared to aid the analysis of offers received.

(b) Abstracts shall indicate the lowest offer as to price and the conformance of each offer to the SFOs.

(4) Offers shall be evaluated in accordance with the award factors specified in the SFOs in determining which offer is most advantageous to the Government.

(5) Awards shall be made to offerors whose offers are the most advantageous to the Government, price and other factors considered.

n. *Late offers, modifications of offers, and withdrawals of offers.* Offers received after the date for best and final offers will be considered in accordance with the provisions of § 1-3.802-1.

o. *Appraisal requirements.* Before the award of a lease when the annual net rental exceeds $2,000, an appraisal of the fair rental shall be obtained for the property to be leased.

p. *Award requirements.* Before making a lease award, the following actions are required:

(1) Standard for Form 1036, Statement and Certificate of Award, shall be completed and executed by the contracting officer. This statement shall contain a complete justification with an analysis of the award factors used in the evaluation process.

(2) GSA Form 367, Analysis of Values Statement (Leased Space), shall be prepared by the contracting officer and included as a part of the lease file to demonstrate that the fair rental value has been properly established.

q. *Award.* Awards will be made in writing within the time frame specified in the SFOs. If an award cannot be made within that time, the contracting officer shall request in writing, from each offeror, an extension of the acceptance period, stating a specific date of extension.

(1) *Disclosure of mistakes after award.* When a mistake in a lessor's offer is not discovered until after award, the mistake shall be handled as provided in § 1-2.406-4.

(2) *Protests against award.* Protests regarding the award of lease contracts shall be handled as provided in § 1-2.407-8.

(3) *Awards to Federal employees.* Offers to lease space received from officers or employees of the Government shall be handled as provided in § 1-1.302-3.

(4) *Contingent fees.* In order to comply with the warranty requirement of 41 U.S.C. 254(a), the requirements of Subpart 1-1.5 shall be followed.

r. *Inspection and certification.* A Government representative shall:

(1) Inspect offered space prior to acceptance and occupancy.

(2) Certify that offered space is in compliance with the Government's requirements and specification.

s. *Responsible prospective offerors.* The responsibility of prospective contractors shall be determined prior to award (see Subpart 1-1.12).

t. *Use of liquidated damages provisions in procurement contracts.* Contracts shall include liquidated damages provisions (see § 1-1.315), as appropriate.

u. *Procurement responsibility and authority.* The procurement responsibility and authority of the head of the procuring activities and contracting officers shall be in accordance with Subpart 1-1.4.

v. *Offeror(s).* (1) *Debarred, suspended, and ineligible bidders.* The policies and procedures in FPR Temporary Regulation 65, September 24, 1982 (47 FR 43692, October 4, 1982) are applicable to offerors involved in leases of real property.

(2) (a) *Representation on size of business.* A representation on the size of the prospective lessor's business (i.e., is or is not a small business) shall be obtained for all leases of real property (see § 1-1.703-1).

(b) *Certification of Nonsegregated Facilities.* A Certification of Nonsegregated Facilities (see § 1-12.803-10) must be submitted prior to the award of a contract of $10,000 or more.

(c) *Covenant Against Contingent Fees.* A certification is required of the lessor that no person(s) or selling agency has been employed to solicit a lease upon an agreement for a commission except bona fide employees or established commercial selling agencies maintained by the lessor to secure business (see Subpart 1-1.5).

(d) *Clean Air and Federal Water Pollution Control Acts.* If the contract exceeds $100,000 over the entire term including all renewal options, the lessor is required to execute (1) a certification that the facility to be utilized in the performance of the proposed lease has or has not been listed on the EPA list of Violating Facilities and (2) a contract clause that a violating facility will not be utilized in the performance of the lease (see Subpart 1-1.23).

w. *Bonds and insurance.* Bid guarantees, performance bonds, and payment bonds may be required for lease contracts (see Subparts 1-10.1 and 1-10.2).

x. *Lease forms.* The use of standard forms is required for lease contracts as follows:

(1) Standard Form 2, U.S. Government Lease for Real Property, and

(2) Standard Form 2-A, General Provisions, Certification and Instructions (U.S. Government Lease For Real Property), for all leases. (See 1-16.601(b).)

y. *Economy Act.* The Economy Act (Section 322 of the Act of June 30, 1932 as amended by Section 15, Title II, of the Act of March 3, 1933 (40 U.S.C. 278a)) provides as follows:

(1) *Background.* (a) After June 30, 1932, no appropriation shall be obligated or expended for the rent of any building or part of a building to be occupied for Government purposes at a rental in excess of the annual rate of 15 percent of the fair market value (FMV) of the rented premises at the date of the lease under which the premises are to be occupied; nor for alterations, improvements, and repairs of the rented premises in excess of 25 percent of the amount of the rent for the first year, or for the rental term if less than one year. Effective October 1, 1981, the 15 percent limitation on rent has been waived for all leases on or after that date. The 25 percent limitation on alterations remains in effect.

(2) *Certificate of necessity.* During a war or a national emergency declared by the Congress or by the President, the Economy Act limitations do not apply to leases or renewals of existing leases of privately or publicly owned property as are certified by the Secretary of the Army, Navy, or the Air Force, or by such person or persons as they may designate, as covering premises for military, naval or civilian purposes necessary for the prosecution of the war or vital in a national emergency. (40 U.S.C. 278(b); (c 353, Title II, Sec. 205(a), and Sec. 207(f), 61 Stat. 501 and 503); (Secretary of Defense Transfer Order No. 14, June 4, 1948, and No. 40, July 22, 1949).

(a) When space is vital in a national emergency and the amount to be expended for rent or for repairs, alterations, and improvements exceeds the limitations of the Economy Act, a Certificate of Necessity is required.

(b) The amount specifically stated in the Certificate of Necessity, or the request for such certification, may not be exceeded unless the certificate is amended to authorize the excess expenditure. When repairs, alterations, and improvements are involved, the request for the certificate shall not include any items which are not within the purview of the Economy Act.

(c) Reassignment of space to another agency is the same as a new lease. Consequently, the unexpended balance of the amount, authorized by a Certificate of Necessity for the alternation of the space for the initial agency may not be extended to another agency occupying the space when such alteration costs exceed the limitations of the Economy Act.

8. *Agency inspection.* Periodic inspections by GSA leasing personnel will be performed on a random basis in order to determine that agencies with delegated-leasing authority are in compliance with this FPR Temporary Regulation.

9. *Availability of forms.* Forms may be obtained as follows:

a. GSA Forms 367, Analysis of Values Statement (Leased Space); 1364, Proposal to Lease Space to the United States of America; 276, Supplemental Lease Agreement; and 1241–E, In-Lease Appraisal, by submitting a written request to the Regional GSA Administrative Services Division Director.

b. Standard Form 2, U.S. Government Lease for Real Property; 2–A, General Provisions, Certification and Instructions, U.S. Government Lease of Real Property; and 1036, Statement and Certificate of Award, by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. The appropriate national stock number should be included on the requisition, 7540–00–634–3958 for SF 2, 7540–00–900–7101 for SF 2–A, and 7540–00–634–4210 for SF 1036.

10. *GSA leasing handbook.* The GSA handbook, "Acquisition of Leasehold Interests in Real Property," PBS P 1600.1A, dated June 22, 1981, is available. It may be used as an additional source of information and guidance. It is not intended that it be considered regulatory.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Ray Kline

Acting Administrator of General Services.

[FR Doc. 83-7735 Filed 3-24-83; 8:45 am]

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41 CFR Part 101–47

[FPMR Amendment H–138]

Surplus Real Property Disposal; Holding Agency Disposal Authority

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: In order to avoid confusion that has been experienced in the past, the General Services Administration is clarifying the disposal authority delegated to holding agencies.

DATE: March 25, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (202–535–7067).

SUPPLEMENTARY INFORMATION: The Administrator of General Services is authorized to delegate certain authorities to heads of other agencies under the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 378; 40 U.S.C. 471 et seq.), and other applicable laws. One such authority designates the holding agency as disposal agency regarding the disposal of certain surplus real property. This proposed rule reflects the concern of Congress that it is the responsibility of the General Services Administration (GSA), not the holding agency, to dispose of federally owned machinery and equipment which are fixtures being used by a contractor-operator where the machinery and equipment will be sold to the contractor-operator. In this regard, it is also the responsibility of GSA, not the holding agency, to provide an explanatory statement of the circumstances of each disposal by negotiation of any real or related personal property having a fair market value in excess of $1,000 to the appropriate committees of Congress in advance of such disposal.

GSA received one response to the proposed revision, published in the **Federal Register** on August 5, 1982, 41 CFR Part 101–47, page 33993. The Department of Energy's (DOE) comments are abstraced as follows:

1. The revision is confusing.

2. Definitions are lacking.

3. The revision might affect disposal authorities expressly given in other statutes.

Points of clarification in response to these comments are set forth below:

1. GSA does not view the revision as confusing. In fact, the DOE comments indicate that the revision and its applicability were correctly interpreted by that agency. As expressed in the DOE comments, the revision excepts major plant equipment and machinery, (i.e. fixtures), sold to contractor-operators from the delegation of disposal authority to holding agencies.

2. The terms "fixtures", "Government-owned machinery and equipment" and "contractor-operator" are considered to be self-explanatory terms.

3. Nothing in this regulatory revision abridges or infringes authorities expressly given in other statutes. Chapter 101–47.301–3 of Title 41 CFR applies with regard to this particular concern.

GSA has determied that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significient adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that 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 101–47

Surplus government property, Government property management.

PART 101–47—[AMENDED]

Accordingly, 41 CFR Part 101–47 is amended to read as follows:

Subpart 101–47.3—Surplus Real Property Disposal

1. Section 101–47.302–2(a)(2) is revised to read as follows:

§ 101–47.302–2 Holding agency.

(a) * * *

(2) Fixtures, structures, and improvements of any kind to be disposed of without the underlying land with the exception of Government-owned machinery and equipment, which are fixtures being used by a contractor-operator, where such machinery and equipment will be sold to the contractor-operator.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: March 3, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-7736 Filed 3-24-83; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 405, 408, 409, 430, and 440

Medicare Program; Hospital Insurance Entitlement and Benefits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations implement thirteen legislative amendments concerning (1) entitlement of aged or

disabled persons to Medicare, (2) requirements for receiving posthospital skilled nursing facility care and home health services, (3) determination of the deductible and coinsurance amounts for which a beneficiary is responsible, and (4) enrollment of individuals who must pay a monthly premium for Medicare. They also clarify, reorganize and renumber a major portion of our existing Medicare regulations.

EFFECTIVE DATE: These regulations are effective April 25, 1983.

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias (202) 245-0383.

SUPPLEMENTARY INFORMATION:

I. Background

These final regulations are based, in part, on a Notice of proposed rulemaking published on May 30, 1980 (45 FR 36443). The May 1980 proposal had a threefold purpose:

1. To implement section 332(a)(3) of the Social Security Amendments of 1977 (Pub. L. 95-216) which affects entitlement based on disability;
2. To make administrative changes in the policies that apply to entitlement based on end-stage renal disease;
3. To simplify, clarify and renumber the regulations that pertain to eligibility and entitlement for hospital insurance and the benefits available under this program (Medicare Part A).

Since the May 1980 proposal, there have been twelve self-explanatory statutory amendments that affect the hospital insurance regulations. The statutory effective dates for these amendments range from December 1, 1980 to January 1, 1982.

The changes required by these amendments, and those that were proposed on May 30, 1980 are brought together in these final regulations. All the changes from current regulations, and the comments received in response to the May 30 publication are discussed below.

II. Changes To Implement Statutory Provisions That Affect Entitlement Based on Disability

The proposed regulations published in May contained a change to implement section 226(e)(4) of the Social Security Act, added by section 332(a)(3) of the Social Security Amendments of 1977 (Pub. L. 95-216). Section 226(e)(4) provides that a disabled widow or widower may be deemed entitled to monthly disability benefits retroactively for up to 12 months before filing an application for those benefits even though payment of the monthly benefits themselves may not be retroactive. The purpose of this provision is to enable the individual to count those earlier months toward the 25 months of disability entitlement required for entitlement to hospital insurance. The final regulations (§ 408.12(c)(4)) retain this provision as it appeared in the proposed rules.

Public Law 96-265, the Social Security Disability Amendments of 1980, contains two provisions that also affect entitlement of disabled persons to Medicare benefits and that are now included in these regulations. Section 103 of that law makes it easier to fulfill the Medicare entitlement requirement of having completed the 25 months of disability entitlement. Under section 103, it is no longer necessary that the 25 months be consecutive. Months in previous periods of disability entitlement (ending within specified time limits) may count toward the required 25 months.

Section 104 of Pub. L. 96-265 provides that entitlement to Medicare benefits will continue for up to 24 months after disability entitlement ends if—

- Disability entitlement ends because the disabled individual engaged in, or demonstrated the ability to engage in, substantial gainful activity; and
- The individual continues to be otherwise eligible for disability benefit entitlement.

The purpose of the amendments is to encourage disabled persons to return to work. Section 103 makes it easier to become reentitled to Medicare benefits if the disabled person has to stop working. Section 104 permits the disabled person to retain Medicare entitlement for up to 2 years after he or she loses disability benefit entitlement because of work.

We have amended the regulations as follows:

1. In §§ 408.5 and 408.12(d), relating to Medicare entitlement, we have removed the requirement that the 25 months of entitlement to disability benefits must be consecutive.
2. In § 408.12 we have added:

- A new paragraph (b) to provide for counting months of previous periods of entitlement or deemed entitlement to disability benefits toward the 25-month requirement; and
- A new paragraph (e) to provide for continuation of Medicare entitlement for up to 24 months when disability benefit entitlement ends because of substantial gainful activity.

Since the obvious intent of section 103 of Pub. L. 96-265 is to provide Medicare to disabled individuals as of their 25th month of entitlement to disability benefits (whether or not the months are consecutive), we are also amending the regulations on supplementary medical insurance (Medicare Part B) to conform to the change in the hospital insurance (Medicare Part A) regulations. Revised § 405.210 provides for automatic enrollment in Part B as of the individual's first month of Part A entitlement based on entitlement to disability benefits, even if he or she was not entitled to monthly disability benefits in the first month of the initial enrollment period (that is, the first day of the third month preceding the month he or she became eligible for Part A).

III. Changes To Implement Statutory Provisions Relating to Entitlement Based on Eligibility for Social Security Benefits

Section 2 of Pub. L. 96-473, enacted on October 19, 1980, contains a provision that enables an individual who is age 65 or older and eligible for monthly social security benefits to establish entitlement to hospital insurance benefits without having to apply for monthly social security benefits. Pub. L. 96-473 became effective on January 1, 1981.

Previously, individuals age 65 and over who met the eligibility requirements for receiving monthly social security benefits had to apply for and become entitled to those benefits before they could become entitled to Medicare. Under that requirement, individuals who were eligible for social security benefits, but who chose not to file for and receive these benefits (for example, because they wished to continue to work) were denied entitlement to Medicare. Pub. L. 96-473 changed that situation. We have amended §§ 408.6 and 408.10 of the recodified regulations to specify that an individual may apply for, and become entitled to, Medicare based on eligibility for social security cash benefits, as contrasted with actual entitlement to those cash benefits.

This new provision is retroactive. Any individual who lost Medicare entitlement because he or she withdrew an application for monthly social security benefits before January 1, 1981, will be considered to have applied only for Medicare and will be reentitled (unless he or she objects) beginning with the month his or her previous period of Medicare entitlement began. The Social Security Administration will contact these individuals and advise them of their rights and that they may have their Medicare entitlement reinstated.

We will reimburse Medicare providers for any covered services furnished to an individual who would have been entitled to Medicare when the services were furnished. (The provider will refund any payment made by, or on behalf of, the individual in accordance with current policy stated in

42 CFR Part 489). If we collected money from an individual who withdrew his or her application after we paid benefits on his or her behalf, we will refund the amounts collected.

IV. Changes To Implement the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) and the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35)

The Omnibus Reconciliation Act of 1980, enacted December 5, 1980, and the Omnibus Budget Reconciliation Act of 1981, enacted on August 13, 1981, contained provisions that affect Medicare eligibility, benefits, reimbursement, and administration. The provisions relating to Medicare Part A eligibility and benefits that have been incorporated in these regulations are discussed below.

Home Health Benefits

Section 930 of Pub. L. 96-499 liberalized home health benefits under Medicare by—

- Removing the 100-visit limitation;
- Deleting the requirement that home health services must be needed for a condition for which inpatient hospital or skilled nursing facility (SNF) care was received, and furnished under a plan of treatment established within 14 days after discharge from the hospital or SNF (the law still requires a plan, but does not set a time limit); and
- Adding need for occupational therapy (as well as need for intermittent skilled nursing services or physical or speech therapy, already included in the law) as a condition qualifying for receipt of home health services.

Section 2122 of Pub. L. 97-35 modified the third provision by eliminating occupational therapy as a basis for initial qualification for home health services but allowing continuing need for occupational therapy to qualify a beneficiary for continuing home health services when he or she no longer required intermittent skilled nursing care or physical or speech therapy.

These provisions of section 930 and 2122 are reflected in the changes made in §§ 409.5, 409.42(b), (c), (d) and (f), and 409.61(d).

Presumed Coverage

Section 941 of Pub. L. 96-499 deleted the presumed coverage provisions. Those provisions are discussed below in connection with the comments received on the presumed coverage portion of the proposed rules published in May 1980. Section 941 is implemented by deleting § 409.48 of the proposed rule.

Enrollment Provisions

Section 945 of Pub. L. 96-499 liberalized enrollment for Medicare Part B and, indirectly, for individuals who can become entitled to Medicare Part A only by enrolling and paying a monthly premium. These are individuals who have attained age 65 but are not eligible for social security cash benefits. Under previous law, an individual could not enroll more than twice, and there was an annual general enrollment period that lasted from January 1 to March 31 of each calendar year. Section 945 amended sections 1837, 1838, and 1839 of the Act to remove the two-enrollment limitation and establish an unlimited general enrollment period that began when the individual's initial enrollment period ended. (The initial enrollment period is a 7-month period beginning 3 months before the month the individual first meets the eligibility requirements for Medicare and ending with the third month after that first month of eligibility.)

The changes made by section 945 meant that individuals could reenroll as many times as they wished and could do so in any month, not just during January, February, or March. Section 945 was effective April 1, 1981. Section 2151 of Pub. L. 97-35 eliminated open enrollment, (that is, restored the annual 3-month enrollment period) effective October 1, 1981 but retained the provision allowing an unlimited number of reenrollments. Since the law requires that the monthly premium be increased for individuals who enroll after expiration of their initial enrollment periods and for those who reenroll, the enrollment provisions of sections 945 and 2151 also affected the way the premium increase would be determined. This is shown in §§ 408.23 and 408.24 of the regulations.

Posthospital SNF Care

Section 950 of Pub. L. 96-499 liberalizes posthospital SNF care by allowing 30 days (instead of 14) after discharge from a hospital for a beneficiary to be admitted to a SNF and receive needed care that is related to the hospital stay. These changes are also discussed as part of the discussion of comments received in response to the proposed rules published in May 1980. The section 950 changes are included in §§ 409.30(b) and 409.36(a).

Retroactive Entitlement

Section 1011 of Pub. L. 96-499 limits to 6 months the retroactivity of applications for certain types of social security benefits and leaves the previous 12-month retroactivity provision in effect for others. Of the groups affected by section 1011, only those who have attained age 65 can also be eligible for Medicare Part A. Medicare entitlement based on entitlement to social security benefits is subject to the 6-month limitation. For the sake of consistency, we are extending the 6-month limitation to applications for hospital insurance based on eligibility for social security benefits available at age 65. This means that an application that is filed within 6 months after the month in which the individual attains age 65 will be deemed to have been filed in the month he or she attained that age, and Medicare entitlement will begin with that month. However, if the application is filed more than 6 months after the month of attainment of age 65, it will be deemed to have been filed in the 6th month before the month of filing, and entitlement will begin in that 6th month. This change is included in § 408.6(d)(4) of the regulations.

Deductibles and Coinsurance

Section 2131 of Pub. L. 97-35 provides that the applicable inpatient hospital deductible amount shall be the amount in effect for the calendar year in which the inpatient hospital services are furnished. It also provides that the applicable coinsurance amounts shall be based on the deductible in effect for the calendar year in which services are furnished. (Under previous law, the applicable deductible and coinsurance amounts were the amounts determined for the year in which the benefit period began.) Section 2132 of Pub. L. 97-35 increases from $40 to $45 the base figure used to determine the inpatient hospital deductible. These provisions are effective January 1, 1982. The changes required by section 2131 are reflected in the deletion of proposed § 409.80(b)(3), and the provisions of §§ 409.82(a), 409.83(a), and 409.85(a). The formula for determining the deductible is not discussed in the regulations but the effect of section 2132 is reflected in the deductible and coinsurance amounts for calendar years 1982 and 1983, set forth in §§ 409.82(b), 409.83(b), and 409.85(b).

"Swing-bed" Provision

Section 904 of Pub. L. 96-499 (commonly referred to as the "swing-bed" provision) provides that certain small rural hospitals may enter into agreements under which they may use their inpatient hospital facilities to furnish the type of care ordinarily furnished in skilled nursing facilities and receive Medicare reimbursement for this care. The swing-bed provision was

implemented by final regulations published on July 20, 1982 (47 FR 31318). Those regulations amended two sections (§§ 405.116 and 405.120) that are being redesignated by these regulations. The conforming changes required by the swing-bed provision are reflected in §§ 409.10, 409.20 through 409.31, 409.36, and 409.85.

V. Waiver of Notice and Opportunity for Public Comment

As indicated in the preceding discussion, several of the provisions implemented by these regulations were enacted after the notice of proposed rulemaking was published in May 1980. For the reasons indicated below, we believe that we are justified in publishing them as final regulations.

Sections 103 and 104 of Pub. L. 96–265 are so specific as to preclude alternative interpretations, were effective December 1, 1980, and are advantageous to disabled persons. Section 2 of Pub. L. 96–473 is equally specific, effective on January 1, 1981, and advantageous to aged persons.

The changes made by Pub. L. 96–499 and Pub. L. 97–35 are also specific. The extension of time between hospital discharge and admission to a SNF was effective December 5, 1980; the change in retroactivity, on March 1, 1981. The changes that liberalize home health services were effective July 1, 1981.

With respect to provisions of Pub. L. 96–499 that are repealed or modified by Pub. L. 97–35, clear understanding is possible only by presenting the whole picture, that is, the rules that apply while the first amendments were in effect and those that apply when the provisions of the second law go into effect. The two other provisions of Pub. L. 97–35 (sections 2131 and 2132) are effective January 1, 1982.

In light of the effective dates and specific nature of the statutes, we find that there is good cause to—

- Make the regulation changes applicable as of the statutory effective dates of the amendments that required those changes; and
- Waive notice of proposed rulemaking procedures as unnecessary and contrary to the public interest.

VI. Changes That Apply to Persons With End-Stage Renal Disease

Three changes that apply to individuals with end-stage renal disease (ESRO) included in the NPRM are adopted as they were proposed. The first responds to comments received on final regulations published on September 28, 1978 (43 FR 44803). The other two are the result of further analysis of the impact of those regulations.

1. Under current rules, entitlement normally begins 3 months after the patient initiates dialysis, but may begin as early as the first month for a patient who is being trained for self-dialysis. The change made by § 408.13(e)(4)(iii) provides entitlement for a patient who begins self-dialysis training but dies before the end of the 3-month waiting period. The purpose of this change is to enable Medicare to pay for the part of training that was completed and for treatment furnished during that period. This will protect the facility against loss and the patient's family against medical debts.

2. The second change requires that self-dialysis training be provided by a facility specifically approved by HCFA to provide such training. (See § 408.13(e)(4)(i).) The decision to approve or disapprove would be based on the recommendation of the State survey agency, that is, the State agency that is under contract with HCFA to survey entities and recommend whether they meet the requirements for participation in the Medicare program. This requirement will ensure that self-dialysis training meets quality and safety standards.

3. The third change requires that anyone who seeks entitlement on the basis of ESRD must file an application. Pub. L. 95–292 added the requirement that ESRD patients must file application for Medicare. (Under the Act, such application may not be retroactive for more than 12 months.) Implementing regulations (42 CFR 405.104) were published on September 28, 1978 (43 FR 44802), to be effective October 1, 1978. The preamble to those regulations indicated that an application was not required for those who had ESRD before October 1, 1978. On further consideration, we realized that the intent of the law was to require an application (with its attendant 12-month limitation on retroactivity) for all ESRD patients who first sought to establish entitlement to Medicare after the effective date of the amendment. Section 408.13(c) is consistent with the basic purpose of the ESRD program, i.e., to enable individuals to obtain currently needed care, rather than to pay (or to reimburse patients who paid) for medical care received many years in the past. This policy is also necessary to preclude potential inequity. For example, without the uniform 1-year limit on retroactivity, an individual who had ESRD in July 1974 but delay filing until July 1980 could become entitled retroactively for 6 years. An individual who developed ESRD in November 1978 but did not file an application until July 1980 could become entitled retroactively for only 1 year, to July 1979. To avoid hardship on persons who had ESRD before October 1, 1978, and became eligible for Medicare, without filing an application, between October 1, 1978, and the present time, we intend to make the filing requirement effective 30 days after publication of these regulations. Anyone seeking entitlement after that date must file an application, regardless of when the diagnosis of ESRD was made.

In addition, a fourth change included in the NPRM would have deleted the provision that permitted an application to be filed on behalf of an ESRD patient after his or her death. This provision was put into effect in October 1978, along with the requirement to file an application. We proposed the deletion because we believed there was no specific statutory authority for the policy. After further review of the statute and consideration of the policy's effect on ESRD beneficiaries, we have decided to withdraw the proposed deletion. The nature of end-stage renal disease is such that potential beneficiaries may, for a legitimate reason, occasionally fail to file an application for benefits prior to their death. For this reason, we believe that posthumous applications are appropriate, and therefore the policy in effect as of October 1978 that allows an application for benefits to be filed on behalf of a deceased ESRD patient is still applicable.

VII. Clarification of Current Regulations

We have reviewed the existing regulations on Medicare entitlement with a view to achieving the following objectives—

- Remove provisions that are outdated or unnecessary;
- Eliminate duplications and correct inconsistencies;
- Define frequently used terms;
- Use shorter sentences and simpler language;
- List and number separate provisions;
- Organize the material in logical order;
- Eliminate most internal cross references; and
- Provide paragraph captions to help readers find the particular subjects that interest them.

These revised regulations supersede a major portion of Subpart A of Part 405 and establish two new parts. Part 408 sets forth the policies on eligibility and entitlement. Part 409 specifies the scope of benefits, limitations on these benefits,

and the deductible and coinsurance amounts for which a beneficiary is responsible. (The sections of Part 405, Subpart A, that are not included in this revision deal with conditions for payment of hospital insurance benefits.) Each of the two new parts begins with a brief explanation of the legal basis and scope of the part and definitions of frequently used terms. There are fewer definitions than there were in the proposed Parts 408 and 409 because we are using this document to establish a new Part 400, Subpart B which presents, at the beginning of Chapter IV, definitions that are commonly used in connection with Medicare or Medicaid, or both. The purpose is to provide easier access for users of the regulations and to avoid repetition of the same basic definitions in each part or subpart in which those terms are used.

For regulations that apply to Medicare Part A benefits, clarification was particularly needed with respect to the limitations on psychiatric care and the blood deductible.

Limitations on Psychiatric Care

Sections 409.62 and 409.63 clarify that there is a 190-day lifetime limitation on inpatient psychiatric hospital care, and that benefits during the initial benefit period are reduced if the individual was receiving inpatient psychiatric hospital care on his or her first day of entitlement and had received such care during any of the immediately preceding 150 days. They delete similar provisions that formerly applied to inpatient care in tuberculosis hospitals but were repealed by the 1967 amendments to the Social Security Act (Section 146(a) of Pub. L. 90–248).

Blood Deductible

Sections 409.80–409.87 clarify policy on deductibles and coinsurance. Rules dealing with the blood deductible:

- Specify that it applies to the first three units of whole blood or units of packed red blood cells and that it does not apply to other blood components or to the costs of processing, storing, and administering blood;
- Set forth criteria for satisfying the blood deductible by a replacement offer.

A replacement offer is acceptable if the replacement blood meets the applicable criteria specified in Food and Drug Administration regulations under 21 CFR Part 640, i.e., the blood would not endanger the health of the recipient and the blood donation would not endanger the health of the prospective donor. The facility may not charge the beneficiary for any of the first three units of whole blood or units of packed red blood cells for which it receives a replacement offer, even if it or its blood supplier rejects the offer.

This change is necessary to ensure that beneficiaries actually have the option (provided by the law) of replacing the first three units of whole blood or packed red blood cells from any sources available to them. Because current regulations do not specify the criteria for an acceptable blood replacement offer, some providers have rejected offers for other reasons, such as the inconvenience of dealing with several different blood suppliers. The specific criteria set forth in the amended regulations will protect beneficiaries from arbitrary rejection of replacement offers.

The final regulations also make clear that the provider may not charge the beneficiary for the first 3 units of whole blood or packed red blood cells if it obtained that blood or red blood cells at no charge except a processing or service charge. In that situation, the blood or red blood cells is deemed to have been replaced. Since the deductible applies only to the cost of the blood or red blood cells itself, Medicare pays the processing or service charge for all whole blood or red blood cells furnished to a beneficiary.

VIII. Discussion of Comments and Changes Responsive to Comments

The proposed recodification published on May 30, 1980, provided 60 days for comment. During that 60-day period we received 11 letters, from the American Red Cross, the American Association of Blood Banks, the American Association of Homes for the Aging, the New York Chapter of the American Physical Therapy Association, the Dallas Visiting Nurse Association, a legal services project, a State Health Department, three hospitals, and one physical therapist. The respondents were primarily concerned with the provisions on replacement of the first three units of whole blood or packed red blood cells and with the "level of care" requirements for coverage of posthospital skilled nursing facility (SNF) services. There was also some confusion as to the intent of the "presumed coverage" provisions.

Replacement of Blood

The American Red Cross (ARC), the American Association of Blood Banks (AABB), and general hospital commented on this provision.

Comment: The ARC commended the proposed clarification and observed that, if all blood were obtained from voluntary donors, beneficiaries would no longer have to pay for the first three units of blood and the Medicare program would realize substantial savings in charges for all blood furnished after the first three units.

Response: We agree that the implementation of an all-voluntary blood replacement system would result in savings to beneficiaries and to the program. However, under the current system, changes in the regulations are needed to protect the rights of Medicare beneficiaries to replace, or arrange for the replacement of, the first 3 units of whole blood or packed red blood cells so that they need not pay for them.

Comment: AABB and the director of the general hospital objected to the provision that a provider may not charge the beneficiary if a valid replacement offer is made even if the provider or its blood supplier rejects the offer. The director of the general hospital recommended that the charge to the beneficiary be waived only when an offer is made *and* accepted.

The AABB also objected to the provision on the following grounds:

1. There is no basis in the law for this provision. There is a significant difference between "arrangements have been made for replacement" (specified in section 1866(a)(2)(C) of the Act as a condition for not charging the beneficiary) and the mere "replacement offer" of the regulations. AABB believes that the language of the law refers only to arrangements in which the provider acquiesces. A "replacement offer" does not require acquiescence and therefore does not cancel the beneficiary's obligation to pay the provider for the first three units.

2. An offer by a major blood supplier to replace blood on behalf of Medicare beneficiaries is actually an offer to sell blood, since that supplier charges providers an amount which is often greater than what the providers pay their regular blood suppliers. These additional costs are passed on to the Medicare program.

3. It is costly, time-consuming, and burdensome for a provider to accept a replacement offer from a blood bank other than the one with which it normally deals.

4. Blood received from a supplier with which the provider does not normally deal is generally too old to be made into components and in fact may be so close to being outdated that it cannot be used.

5. The proposed regulation conflicts with 42 CFR 405.1028(j) (which requires providers to have "facilities for procurement, safe-keeping and transfusion of blood products") because the proposed regulation would interfere with a provider's system for procuring needed blood on an orderly basis.

Response: 1. We believe that the regulation (§ 409.87(c)) properly implements section 1866(a)(2)(C) of the Act and is fully consistent with the intent of Congress in enacting the provision. This intent is spelled out in the legislative reports that preceded enactment of the original Medicare legislation (House Report No. 213 and Senate Report 404, Part I, 89th Congress, 1st Session). The reports state with regard to the blood deductible: "The committee included this deduction provision in the interest of the voluntary blood replacement programs which encourage donations of blood by waiving charges for blood *which the patient arranges to replace*" (page 28 of Senate Report and page 25 of House Report with italic added).

The language of the committee reports indicates that it was the intent of this statutory provision that the replacement of blood through voluntary blood replacement programs relieve beneficiaries of the responsibility of paying for deductible blood, and that the replacement "arrangements" contemplated were not limited to those in which there is an agreement between the provider and a blood assurance plan. Thus, section 1866(a)(2)(C) of the law gives the beneficiary an unqualified option of either paying for the blood or arranging for replacement by whatever source he or she can, e.g., a relative, a friend or a blood replacement plan. To permit the hospital to reject a beneficiary's replacement offer would give it veto power over this option, thus effectively depriving the beneficiary of the right to obtain relief from the obligation to pay the nonreplacement fee. Such a rule would also tend to discourage membership by Medicare beneficiaries in blood replacement plans which have the same aim as the Medicare blood deductible provision—the encouragement of voluntary blood donations.

2. and 3. We recognize that some blood assurance plans charge providers for blood furnished on behalf of a Medicare beneficiary. However, we do not agree that charging a reasonable blood processing fee is equivalent to selling blood or that such a plan cannot be viewed as making a bona fide replacement offer of deductible blood on behalf of a Medicare beneficiary.

4. We do not believe that the age of blood replaced by blood suppliers will be a serious problem. The country's two major blood banking organizations require that blood shipped by member blood bank must be no more than 5 days old when shipped unless otherwise agreed to by the receiving facility.

5. We see no conflict between the regulation and 42 CFR 405.1028(j). This standard of the Medicare conditions of participation for hospitals does not proscribe hospitals from accepting blood from blood banks with which they do not have an agreement. It merely requires that facilities for procurement, safekeeping and transfusion of blood and blood products be "provided or readily available" and that a hospital which depends on outside blood banks have "an agreement governing procurement, transfer and availability of blood * * *."

A provider that has such an agreement with respect to the bulk of its blood supply is not precluded from accepting blood on occasion from other sources as circumstances may require, e.g., if it cannot obtain sufficient blood from its regular supplier or if a beneficiary wishes to replace deductible blood through arrangements with his or her own sources.

Coverage of Posthospital Extended Care Services in a SNF

Legal Assistance to Medicare Patients (LAMP), the American Physical Therapy Association (APTA), and the American Association of Homes for the Aged (AAHA) commented on this portion of the regulations, which sets forth the four essential requirements for coverage of posthospital SNF care:

- There must have been a previous hospital stay of at least 3 days.
- Discharge from the hospital must have occurred while the patient was entitled to Medicare Part A benefits.
- The need for posthospital SNF care, admission to the SNF, and receipt of SNF care must occur within a specified period of time after discharge from the hospital, except when the patient's condition does not permit initiation of this care until later.
- The care needed must be of a specified level and must be needed on a daily basis.

While final regulations were under development, section 950 of Pub. L. 96-499 modified these provisions to:

- Allow 30 days instead of 14 days (after discharge from a hospital) to be admitted to a SNF and receive needed SNF care; and
- Delete the extension (from 14 to 28 days) previously allowed when a SNF bed was not available.

Comment: LAMP objected to the requirement (§ 409.30(b)) that the individual be in need of extended care services on the date of admission. It pointed out that the law requires only that he or she need the services within 14 days after discharge from the hospital.

Response: We agree the proposed language was confusing and have revised it to clarify the policy and to implement the change made by Section 950 as follows:

- Posthospital SNF care is covered only for days when the beneficiary needs and receives care of the level described in § 409.31.
- The beneficiary must—

a. Receive the SNF care within 30 days after the date of discharge from the hospital; or

b. Receive the SNF care at a later time when his or her medical condition permits initiation of an active course of treatment. Under this provision, the need must be predictable at the time of discharge. An example would be a patient with a broken hip, who would need physical therapy but might not be able to initiate that therapy until more than 30 days after discharge from the hospital.

The amendments became effective on December 5, 1980. The new requirements have been incorporated into §§ 409.30(b) and 409.36(a).

Comment: LAMP also objected to the language in § 409.31(b)(2) which indicates that, as a condition for meeting the level of care requirement, skilled nursing or skilled rehabilitation services must be needed for treatment of a condition for which the beneficiary received inpatient hospital services or "which arose while the beneficiary was receiving *SNF* care [which implies a skilled level of care] for a condition treated in the hospital" (italics and brackets added). LAMP pointed out that the provision appears to require that the individual be receiving skilled care before he or she needs it.

Response: We concur that the proposed language could be misconstrued. We have changed the phrase "was receiving SNF care" to "was receiving care in a SNF", to make clear that the condition requiring covered posthospital SNF care could arise while the individual was receiving care that did not meet the level of care requirements. For instance, the individual could have been receiving rehabilitative services that were not covered under Medicare because they were needed 3 or 4 times a week instead of daily.

Comment: In addition, LAMP considered that the level of care requirement specified in § 409.31(b)((3) encourages evaluation of the individual's skilled care needs through isolation of particular medical services rather than consideration of the individual's total condition and overall needs.

Response: This section states the general rule, that the skilled services must be services that, as a practical matter, can be provided only in a SNF and on an inpatient basis. Criteria for applying this requirement in individual cases are set forth in § 409.35 and specifically require consideration of the patient's general condition.

Comment: The APTA objected to the requirement that the individual must need the skilled services "on a daily basis" (§ 409.31(b)(1)) and to the statement that "a break of one or two days does not preclude coverage" (§ 409.34(b)) because, in a one-person physical therapy department—

- The services may not be available 7 days a week; and
- Vacation time, sick time, or time for continuing education would preclude coverage in accordance with the cited statement.

Response: These regulations implement the requirement of section 1814(a)(2)(C) of the Act, that services must be needed on a daily basis. Accordingly, Medicare does not pay for an SNF stay unless the individual receives the care he or she needs. If the patient needs physical therapy services and these are temporarily unavailable from the facility's regular staff, the facility is expected to ensure that the patient's need is met from some other qualified source.

Comment: The APTA also objected to the $100-a-year limitation on services furnished by a physical therapist in independent practice.

Response: That limitation is imposed by section 1833(g) of the Act (which was amended by section 935 of Pub. L. 96–499 to raise the limit to $500 a year) and implemented by other regulations, at § 405.232(c)(2). Section 409.35 merely cites this limitation in an example. Under the level of care requirements, Medicare pays for inpatient SNF care only if it finds that, as a practical matter, the services can be provided only on an inpatient basis. The example makes clear that, if a physical therapist in independent practice can provide the needed services to the beneficiary, the fact that Medicare cannot pay for them (because of the statutory limitation) is not a basis for finding that the services can be provided only on an inpatient basis.

Comment: The AAHA expressed the hope that the recodification was not our answer to those who have urged a complete review of the level of care concept, for Medicaid as well as Medicare.

Response: The current level of care policies, including SNF level of care, are under review by our Long Term Care Policy Group. Because of the significance and complexity of these policies, the review is expected to require considerable time. In the interm, we believe it is necessary to carry out our recodification project to simplify and clarify existing regulations and to make the other changes described in this preamble.

Presumed Coverage Policy

The presumed coverage policy set forth in § 405.33 of current regulations was required by law (sections 1814 (h) and (i) of the Act) as one way of lessening the problems created for beneficiaries by retroactive denials of coverage. It constituted a liberalization which permitted the physician (at his or her option) to certify that the SNF care or home health services qualified for presumed coverage and thus ensure that Medicare would not question the need for at least the *minimum* number of SNF days or home health visits that experience had shown were usually required for certain medical conditions. (However, an adverse decision of a utilization review committee or a Professional Standards Review Organization would supersede the certification of presumed coverage.) Days and visits beyond that minimum, up to the maximum allowed by law, were also covered if the physician certified the need for them, a Professional Standards Review Organization or a utilization review committee had not determined that the care was not medically necessary or appropriate, and all other requirements were met.

Comment: The APTA, the Visiting Nurse Association (VNA) of Dallas, and a physical therapist made comments indicating a misinterpretation of the intent of this policy, which had been in effect since 1976 and was not changed at all by the recodification. In general, they equated "presumed coverage" with "maximum coverage" and accordingly found the number of days of SNF care or of home health visits totally inadequate and well below what the law allows. They also raised questions about the meaning of certain terms and why certain kinds of services were excluded from presumptive coverage.

Response: These comments and questions became moot when Section 941 of Pub. L. 96–499 repealed the presumed coverage provision effective January 1, 1981. As indicated above, § 409.48, which would have recodified § 405.133, has been deleted from the final regulations.

Miscellaneous Comments

The three general hospitals, the State health department, and the APTA also commented on other aspects of the regulations as follows:

1. *Limitations on amounts and kinds of benefits.*

Comment: One hospital director stated that the lifetime limit of 190 days of psychiatric care (§ 409.62) discriminates against individuals with mental illness and prevents facilities from giving the best possible care to Medicare patients.

Response: The limitation is imposed by the law (section 1812(b) of the Act) and reflects Congressional views on the most cost-effective use of the limited funds available to pay for medical care.

Comment: Another hospital suggested that we allow for more than 100 days of posthospital SNF care (per spell of illness), perhaps through a lifetime reserve similar to that provided for inpatient hospital days. It noted that, if the individual remains in the SNF, the "spell of illness" (called "benefit period" in the revised regulations) is never broken and he or she cannot become entitled to another 100 days.

Response: The 100-day limitation (§ 409.61) is imposed by section 1812(a) of the Act and cannot be changed unless the law is changed. With regard to the comment on breaking a spell of illness, we are currently reviewing whether the statute permits a different approach than the one set forth in our current regulations.

Comment: The APTA recommended that we provide for food and transportation which, in some situations, are essential to prevent having to hospitalize a patient.

Response: The law does not provide for Medicare coverage of meals in the home or of transportation, except for ambulance services when required by the patient's condition. The Congressional Committee reports which accompanied the original Medicare legislation specifically state that food service arrangements, such as meals-on-wheels programs, and transportation would not be paid for under the program. Subsequently, proposals to extend coverage to these services were considered and rejected.

2. *Other diagnostic or therapeutic services.*

Section 409.16 of the regulations permits a hospital to "arrange" for other entities to provide certain diagnostic or therapeutic services and to bill Medicare for those services if they are services of the kind that a hospital

ordinarily furnishes directly or "under arrangements".

Comment: The APTA asked who decides what services are services "ordinarily furnished" by a hospital.

Response: The general rule is that each hospital decides what diagnostic and therapeutic services it will furnish directly and what services it will furnish under arrangements with an outside source. The intermediary then determines, on the basis of the hospital's practice and in accordance with applicable HCFA guidelines, which services that particular hospital ordinarily furnishes.

3. *Definition of "skilled" services.*

Comment: A State health department expressed concern because the definition of "skilled nursing and skilled rehabilitation services" (§ 409.31) states that skilled services may be provided under the supervision of a licensed practical nurse (LPN), whereas requirements appearing elsewhere appear to mandate supervision by a registered nurse (RN).

Response: The writer may be thinking about the conditions of participation for SNFs, which require that the director of nursing services be an RN (42 CFR 405.1124). The definition is correct. Medicare pays for a skilled nursing or skilled rehabilitation service furnished to a patient if it is supervised either by an RN or by an LPN.

IX. Technical Changes and Redesignation Tables

Throughout this regulation, we have made a number of corrections, conforming changes, and minor editorial revisions in the May 30 proposed rule. We are also including, as an aid to readers, a redesignation table showing where each section of the old regulations is now located.

X. Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory analysis be prepared for a rule that is likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or significant adverse effects on business or employment.

We have determined that only one of these regulations will affect the economy by more than $100 million. That provision implements section 2132 of Pub. L. 97-35, concerning the amount of the inpatient hospital deductible. Although this provision is expected to result in savings of more than $100 million for fiscal years 1982 and 1983, a regulatory analysis is not required because the change is mandated by Congressional action. This notice merely announces the change required by law in the base figure used for computing the inpatient hospital deductible.

The redesignation itself has no impact. The anticipated effect of changes made to implement statutory amendments is as follows:

Pub. L. 96-265—Changes to encourage disabled individuals to return to work (by providing for retention of Medicare entitlement for up to 2 years after they start working and making it easier to become reentitled if they again become disabled).

This is the most costly of the statutory amendments, expected to increase Medicare costs by $47 million in FY 1982.

Pub. L. 96-473—Allows entitlement to Medicare without having to apply for social security cash benefits.

No significant cost implications.

Pub. L. 96-499—Omnibus Reconciliation Act of 1980.

Section 930, which would liberalize home health benefits, is the only Pub. L. 96-499 provision implemented by these regulations that is expected to increase program costs more than a negligible amount. Sections 941 (deletion of the presumed coverage provision), 945 (open enrollment), 950 (allowing 30 instead of 14 days after hospital discharge for the individual to be admitted to a SNF and receive needed posthospital SNF care), and 1011 (limiting retroactivity of applications to 6 months instead of 12 months), are expected to have little, if any, impact.

The anticipated overall impact of the home health benefits liberalization required by section 930 was a $52 million increase in program costs for 1982: $12 million as a result of removing the 3-day prior hospital or SNF stay requirement; $5 million as a result of removing the 100-visit limitation, and $35 million as a result of including need for occupational therapy as qualifying the beneficiary to receive home health services. The estimates of costs for the unlimited visits and occupational therapy changes included the cost impact under Part B of Medicare, which also pays for home health services. (Savings of $2 million to $4 million a year were anticipated in Medicaid costs for 1982, because of increased Medicare benefits to individuals who are entitled under both programs.) Under the modification of the occupational therapy provision by section 2122 of Pub. L. 97-35 the program cost increase is estimated to be only $8 million for FY 1982, and $9 million for FY 1983.

Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981: Other changes.

Section 2131 applies the deductible and coinsurance amounts that are in effect when the services are furnished rather than when the benefit period began. This is expected to save $5 million for fiscal year 1982 and $10 million for fiscal year 1983.

Section 2132—Increases from $40 to $45 the base figure used to determine the amount of the inpatient hospital deductible for the ensuing year.

This is the only statutory amendment that is expected to have a major impact. Estimated savings are $185 million in 1982 and $305 million in 1983.

Regulatory Flexibility Act of 1980 (Pub. L. 96-354)

This act requires a regulatory flexibility analysis for any regulations that will have a significant economic impact on a substantial number of small entities. The requirement does not apply to regulations that were published as proposed before January 1, 1981. Therefore, no analysis is required for the regulations based on the May 1980 proposal. For policies not included in that proposal, as indicated above, the only three provisions with measurable impact are those that affect individuals directly: entitlement based on disability, liberalization of certain home health benefit requirements, and the increase in the base figure used to determine the inpatient hospital deductible. Liberalization of home health benefits will have a positive impact on home health agencies since it makes benefits more readily available to Medicare beneficiaries. The increase in the amount of the inpatient hospital deductible and the hospital and SNF coinsurance will be borne by the beneficiaries and will not affect the providers. Accordingly, we find that a regulatory flexibility analysis is not required.

List of Subjects

42 CFR Part 400

Medicare, Medicaid.

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ERSD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing home, Onsite surveys, Outpatient providers,

Reporting requirements, Rural areas, X'rays.

42 CFR Part 408

Aged, Disabled, Eligibility, End-Stage renal disease (ESRD), Health Insurance, Medicare.

42 CFR Part 409

Blood, Health insurance, Home health, Hospitals, Inpatients, Medicare, Nursing homes.

42 CFR Part 430

Aid to Families with Dependent Children, Contracts (Agreement), Grant-in-Aid program—health, Health facilities, Medicaid, Medicare, Supplemental Security Income (SSI).

42 CFR Part 440

Clinics, Dental health, Drugs, Grant-in-Aid program—health, Health care, Health facilities, Health professions, Hearing disorders, Home health services, Inpatients, Laboratories, Language disorders, Lung diseases, Medicaid, Mental health centers, Occupational therapy, Personal care services, Physical therapy, Prosthetic devices, Outpatients, Opthalmic goals and services, Rural areas, Speech disorders, X-rays.

REDESIGNATION TABLE.—PART 405, SUBPART A

Old Sec.	New Sec.
405.101(a)	409.3.
405.101(b)	deleted.
405.102	408.10.
405.103	408.11.
405.104	408.13.
405.105	408.12.
405.106 (a) & (b)	408.20.
405.106 (c) & (c)(1)	408.21.
405.106(c)(2)	408.25.
405.106(c)(3)	Deleted as unnecessary. § 405.210 clearly applies only to individuals already entitled to Hospital Insurance. Reference to § 405.106 must be deleted from § 405.205.
405.106(d)	408.22.
405.110(a)	Deleted as inaccurate and unnecessary.
405.110(a) (1) & (2)	409.61(a)(1).
405.110(b)	409.3.
405.110(c)(1)	Deleted as outdated.
405.110(c)(2)	Deleted as redundant.
405.110(d)	409.62(a).
405.111 Uncoded introduction.	Deleted as unnecessary.
405.111(a)	409.63(a).
405.111(b)	Deleted as outdated.
405.111 (c) & (d)	409.63(a).
405.112	409.64.
405.113	409.80.
405.114	409.87.
405.115	409.82.
405.116	409.10.
405.116(a)	409.10.
405.116(b)	409.11.
405.116(c)	409.12.
405.116(d)(1)	409.13.
405.116(d)(2)	409.14.
405.116(e)	409.16.
405.116(f)	409.15.
405.116(g) and (h)	409.18.
405.117	409.89.

REDESIGNATION TABLE.—PART 405, SUBPART A—Continued

Old Sec.	New Sec.
405.118(a) language through "paragraph (c) of this section".	409.65(b).
405.118(a) remaining language.	409.65(a).
405.118(b)	409.65(c).
405.118(c)	409.65(d).
405.118(d)	409.65(e).
405.119	409.66.
405.120(a)(1) words "he was an inpatient for not less than 3 consecutive days".	409.30(a).
405.120(a)(1) all other words	Deleted because mostly cross-references or duplicative of content of § 409.30.
405.120(a)(2) First 2 sentences.	Deleted as outdated.
405.120(a)(2) Last sentence	Deleted as unnecessary. The cited § 405.152 takes care of the matter.
405.120(b)(1)	Deleted because 100-day limitation is explained in § 409.61(b).
405.120(b)(2)	409.32.
405.120(b)(3)	Deleted because the specifics of the cited sections are incorporated in § 409.31.
405.120(c)	409.30(a).
405.120(d)(2) Words through the 3rd and final October 30, 1972".	Deleted as unnecessary. Since (d)(1), which dealt with admissions *before* 10/30/72, was deleted, there is only one set of requirements.
405.120(d)(2) remaining words through (d)(2).	409.30(b).
405.120(d)(3) Words through the parenthetical statement.	Deleted as unnecessary (a calendar day is a calendar day).
405.120(d)(3) Remaining words.	409.32.
405.120(e) Deductible and coinsurance amount.	§§ 409.80 and 409.82.
405.122	409.64.
405.123	409.87.
405.124	409.85.
405.125	409.20.
405.126 Uncoded introduction.	Deleted as unnecessary.
405.126 (a) & (b)	409.31.
405.127(a)	409.31.
405.127(b)	409.32.
405.127 (c) & (d)	409.33.
405.128	409.34.
405.128a	409.35.
405.130	409.44
405.131 Uncoded introduction (and specifics taken from 405.236).	409.40(a).
405.131(a)–(f)	409.40(b).
405.133	Deleted because Section 941 of Pub. L. 96–499 revoked the presumed coverage provisions of the Act.
405.151	409.69.
405.161	409.68.
405.180	408.30.
405.181	408.31
430.1	400.200 and 400.203.

42 CFR Chapter IV is amended as set forth below:

A. The table of contents of Subchapter A is revised to read as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBCHAPTER A—GENERAL PROVISIONS

Part

400 Introduction; Definitions

401 General Administrative Requirements

402 [Reserved]

403 Special Programs and Projects

404 [Reserved]

* * * * *

B. A new Part 400, consisting of Subpart B, is added to read as follows:

PART 400—INTRODUCTION; DEFINITIONS

Subpart A—[Reserved]

Subpart B—Definitions

Sec.

400.200 General definitions.

400.202 Definitions specific to medicare.

400.203 Definitions specific to medicaid.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart A—[Reserved]

Subpart B—Definitions

§ 400.200 General definitions.

In this chapter, unless the context indicates otherwise—

"Act" means the Social Security Act, and titles referred to are titles of that Act.

"Administrator" means the Administrator, Health Care Financing Administration.

"CFR" stands for Code of Federal Regulations.

"Department" means the Department of Health and Human Services (HHS), formerly the Department of Health, Education, and Welfare.

"ESRD" stands for end-stage renal disease.

"FR" stands for *Federal Register.*

"HCFA" stands for Health Care Financing Administration.

"HHS" stands for the Department of Health and Human Services.

"HHA" stands for home health agency.

"HMO" stands for health maintenance organization.

"ICF" stands for intermediate care facility.

"Medicaid" means medical assistance provided under a State plan approved under title XIX of the Act.

"Medicare" means the health insurance program for the aged and disabled under title XVIII of the Act.

"OASDI" stands for the Old Age, Survivors, and Disability Insurance program under title II of the Act.

"PSRO" stands for Professional Standards Review Organization.

"Regional Administrator" means a Regional Administrator of HCFA.

"Regional Office" means one of the regional offices of HCFA.

"RHC" stands for rural health clinic.

"Secretary" means the Secretary of Health and Human Services.

"SNF" stands for skilled nursing facility.

"Social security benefits" means monthly cash benefits payable under section 202 or 223 of the Act.

"SSA" stands for Social Security Administration.

"United States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"U.S.C." stands for United States Code.

§ 400.202 Definitions specific to Medicare.

As used in connection with the Medicare program, unless the context indicates otherwise—

"Beneficiary" means a person who is entitled to Medicare benefits.

"Carrier" means an entity that has a contract with HCFA to determine and make Medicare payments for Part B benefits payable on a charge basis and to perform other related functions. The term includes HCFA's Office of Direct Reimbursement, which performs carrier functions for certain facilities.

"Entitled" means that an individual meets all the requirements for Medicare benefits.

"Hospital insurance benefits" means payments on behalf of, and in rare circumstances directly to, an entitled individual for services that are covered under Part A of title XVIII of the Act.

"Intermediary" means an entity that has a contract with HCFA to determine and make Medicare payments for Part A of Part B benefits payable on a cost basis and to perform other related functions. The term includes HCFA's Office of Direct Reimbursement, which performs intermediary functions for certain providers.

"Medicare Part A" means the hospital insurance program authorized under Part A of title XVIII of the Act.

"Medicare Part B" means the supplementary medical insurance program authorized under Part B of title XVIII of the Act.

"Provider" means a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, or a home health agency that has in effect an agreement to participate in Medicare, or a clinic, a rehabilitation agency, or a public health agency that has a similar agreement but only to furnish outpatient physical therapy or speech pathology services.

"Railroad retirement benefits" means monthly benefits payable to individuals under the Railroad Retirement Act of 1974 (45 U.S.C. beginning at section 231).

"Services" means medical care or services and items, such as medical diagnosis and treatment, drugs and biologicals, supplies, appliances, and equipment, medical social services, and use of hospital or SNF facilities.

"Supplementary medical insurance benefits" means payment to or on behalf of an entitled individual for services covered under Part B of title XVIII of the Act.

"Supplier" means a physician or other practitioner, or an entity other than a provider, that furnishes health care services under Medicare.

§ 400.203 Definitions specific to Medicaid.

As used in connection with the Medicaid program, unless the context indicates otherwise—

"Applicant" means an individual whose written application for Medicaid has been submitted to the agency determining Medicaid eligibility, but has not received final action. This includes an individual (who need not be alive at the time of application) whose application is submitted through a representative or a person acting responsibly for the individual.

"Federal financial participation" (FFP) means the Federal Government's share of a State's expenditures under the Medicaid program.

"FMAP" stands for the Federal medical assistance percentage, which is used to calculate the amount of Federal share of State expenditures for services.

"Medicaid agency" or *"agency"* means the single State agency administering or supervising the administration of a State Medicaid plan.

"Provider" means any individual or entity furnishing Medicaid services under a provider agreement with the Medicaid agency.

"Recipient" means an individual who has been determined eligible for Medicaid.

"Services" means the types of medical assistance specified in sections 1905(a)(1) through (18) of the Act.

"State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands.

"State plan" or *"the plan"* means a comprehensive written commitment by a Medicaid agency, submitted under section 1902(a) of the Act, to administer or supervise the administration of a Medicaid program in accordance with Federal requirements.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

C. Part 405 is amended as set forth below:

Subpart A—Hospital Insurance Benefits

1. Subpart A is amended as follows:

a. The subpart title and the authority statement are revised, a new § 405.100 is added, and §§ 405.101 through 405.133, 405.151, 405.161, 405.180, and 405.181 are removed.

Subpart A—Hospital Insurance Benefits

Sec.
405.100 Scope.
* * * * *

Authority: Secs. 1102, 1814, 1815, 1861 and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395g, 1395x, and 1395hh).

b. A new § 405.100 is added to read as follows:

§ 405.100 Scope.

This subpart deals only with conditions and procedures for payment of hospital insurance benefits (Parts A of Medicare). Provisions dealing with eligibility and entitlements are set forth in Part 408 of this chapter. Provisions dealing with the scope of the benefits are set forth in Part 409 of this chapter.

c. The content of §§ 405.101–405.133, 405.151, 405.181, 405.180, and 405.181 is revised and redesignated under new Parts 408 and 409.

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusion, and Payment

2. Subpart B is amended as set forth below:

a. The authority statement is revised to read as follows:

Authority: Secs. 1102, 1831–1843, 1861, 1862, 1866, and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395j-1395v, 1395x, 1395y, 1395cc, and 1395hh.

b. Section 405.210 is amended by revising paragraph (b) to read as follows:

§ 405.210 Individual enrollment: enrollment procedures.

* * * * *

(b) *Automatic enrollment.* Any individual who is eligible to enroll in the supplementary medical insurance plan by reason of entitlement to hospital insurance and who is residing in the United States, exclusive of Puerto Rico, shall, unless he timely declines such insurance in accordance with paragraph (c) of this section, be deemed to have

enrolled in the supplementary medical insurance plan as follows:

(1) He will be deemed to have enrolled for supplementary medical insurance in the third month of his initial enrollment period if:

(i) He was entitled to monthly cash benefits under section 202 of the Act on the first day of his initial enrollment period;

(ii) He becomes entitled to monthly benefits under section 202, by filing application and meeting all other requirements during the first 33 months of that period;

(iii) He is eligible for monthly social security cash benefits under section 202 of the Act and has filed an application for hospital insurance during the first 3 months of that period (effective as specified in § 408.10 of this chapter); or

(iv) He is entitled to hospital insurance based on entitlement to social security disability benefits (see § 408.12 of this chapter), end-stage renal disease (see § 408.13 of this chapter).

* * * * *

Subpart T—Health Maintenance Organizations

3. Subpart T is amended as set forth below:

a. The authority statement is revised to read as follows:

Authority: Secs. 1102, 1871, and 1876 of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395mm).

§ 405.2020 [Amended]

b. Section 405.2020 is amended by removing the word "consecutive" in paragraphs (d)(1)(i)(*c*), and (d)(2)(i).

c. A new Part 408 is added to read as follows:

PART 408—MEDICARE ELIGIBILITY AND ENTITLEMENT

Subpart A—Hospital Insurance

General Provisions

Sec.

Hospital Insurance Without Premiums

Premium Hospital Insurance

Sec.

Special Circumstances That Affect Entitlement

Authority: Secs. 202 (t) and (u), 226, 226A, 1102, 1811 and 1818 of the Social Security Act (42 U.S.C. 402 (t) and (u), 426, 426–1, 1302, 1395c, 1395i–2; Section 103 of Pub. L. 89–97 (42 U.S.C. 426a)).

Subpart A—Hospital Insurance

General Provisions

§ 408.1 Statutory basis.

Sections 226, 226A, and 1818 of the Social Security Act and section 103 of Pub. L. 89–97 establish the conditions for entitlement to hospital insurance benefits. Sections 202 (t) and (u) of the Act specify limitations that apply to certain aliens and to persons convicted of certain offenses.

§ 408.2 Scope.

This subpart specifies the conditions of eligibility for hospital insurance and sets forth certain specific conditions that affect entitlement to benefits. Hospital insurance is authorized under Part A of Title XVIII and is also referred to as Medicare Part A. It includes inpatient hospital care, posthospital skilled nursing facility care, and posthospital home health services.

§ 408.3 Definitions.

"First month of eligibility" means the first month in which an individual meets all the requirements for entitlement to hospital insurance except application or enrollment if that is required.

"First month of entitlement" means the first month for which the individual meets all the requirements for entitlement to Part A benefits.

"Insured individual" means an individual who has the number of quarters of coverage required for monthly social security benefits.

"Quarter of coverage" means a calendar quarter that is counted toward the number of covered quarters required to make the individual eligible for monthly social security benefits. A quarter is counted if during that quarter (or that calendar year) the individual earned a required minimum amount of money. (For details, see 20 CFR Part 404, Subpart B.)

§ 408.5 Bases of eligibility and entitlement.

(a) *Hospital insurance without premiums.* Hospital insurance is available to most individuals without payment of a premium if they:

(1) Are age 65 or over, or

(2) Have received social security or railroad retirement disability benefits for 25 months; or

(3) Have end-stage renal disease. Sections 408.10 through 408.13 explain the requirements such individuals must meet to obtain hospital insurance without premiums.

(b) *Premium hospital insurance*—Many individuals who are age 65 or over, but do not meet the requirements set forth in §§ 408.10 through 408.13, may obtain the benefits by paying a premium. Section 408.20 of this part explains the requirements individuals must meet to obtain premium hospital insurance.

§ 408.6 Application or enrollment for hospital insurance.

(a) *Basic provision.* In most cases, eligibility for Medicare Part A is a result of entitlement to monthly social security or railroad retirement cash benefits or eligibility for monthly social security cash benefits. This section specifies the individuals who need not file an application to become entitled to hospital insurance, those who must file an application, and those who must enroll.

(b) *Individuals who need not file an application for hospital insurance.* An individual who is already entitled to monthly social security or railroad retirement benefits when he or she attains age 65 or who establishes entitlement to those benefits after age 65 need not file a separate application to become entitled to hospital insurance. (See 20 CFR Part 404, Subpart D for eligibility requirements for social security cash benefits, and Subpart G for requirements for filing applications for cash benefits.)

(c) *Individuals who must file an application for hospital insurance.* An individual must file an application for hospital insurance if he or she seeks entitlement to hospital insurance on the basis of—

(1) The transitional provisions set forth in § 408.11;

(2) Deemed entitlement to disabled widow's or widower's benefit under certain circumstances as provided in § 408.12;

(3) A diagnosis of end-stage renal disease, as specified in § 408.13; or

(4) Effective January 1, 1981, eligibility for social security cash benefits, as specified in § 408.10(a)(3), if the individual has attained age 65 without applying for those benefits.

(d) *When application is deemed to be filed.* (1) An application based on the transitional provisions or on ESRD is deemed to be filed in the first month of eligibility if it is filed not more than 3 months before the first month, and is retroactive to that month if filed within 12 months after the first month. An application filed more than 12 months after the first month of eligibility is retroactive to the 12th month before the month it is filed.

(2) An application for deemed entitlement to disabled widow's or widower's benefits, that if filed before the first month in which the individual meets all conditions of entitlement for this benefit, will be deemed a valid application if those conditions are met before an initial determination, reconsideration, or hearing decision is made on the application. If the conditions are met after the date of any hearing decision, a new application will have to be filed. An application validly filed within 12 months after the first month of eligibility is retroactive to that first month. If filed more than 12 months after that first month, it is retroactive to the 12th month before the month of filing.

(3) Effective June 8, 1980, an application based on eligibility for social security benefits at or after age 65, that is filed before the first month in which the individual meets all eligibility conditions for this benefit, will be deemed a valid application if those conditions are met before an initial determination, reconsideration, or hearing decision is made on the application. If the conditions are met after the date of any hearing decision, a new application will have to be filed.

(4) Effective March 1, 1981, an application validly filed within 6 months after the first month of eligibility is retroactive to that first month. If filed more than 6 months after that first month, it is retroactive to the 6th month before the month of filing.

(e) *Individuals who must enroll for hospital insurance.* An individual who must pay a monthly premium for hospital insurance must enroll in accordance with the procedures set forth in § 408.21.

Hospital Insurance Without Premiums

§ 408.10 Individual age 65 or over who is entitled to social security or railroad retirement benefits, or who is eligible for social security benefits.

(a) *Requirements.* An individual is entitled to hospital insurance benefits under Section 226 of the Act if he or she has attained aged 65 and is:

(1) Entitled to monthly social security benefits under section 202 of the Social Security Act;

(2) A qualified railroad retirement beneficiary who has been certified as such to the Social Security Administration by the Railroad Retirement Board in accordance with section 7(d) of the Railroad Retirement Act of 1974; or

(3) Effective January 1, 1981, eligible for monthly social security benefits under section 202 of the Act and has filed an application for hospital insurance.

(b) Beginning and end of entitlement.

(1) Entitlement begins with the first day of the first month in which the individual meets the requirements of paragraph (4) of this section.

(2) Entitlement continues until the individual dies or no longer meets the requirements of paragraph (a) of this section. An individual is not entitled to railroad retirement benefits and is neither entitled to, nor eligible for, monthly social security benefits in the month in which he or she dies. However, an individual who meets all other requirements for hospital insurance entitlement is entitled to hospital insurance in the month in which he or she dies if he or she—

(i) Would have been entitled to monthly railroad retirement benefits or social security benefits in that month if he or she had not died; or

(ii) Has filed an application for hospital insurance and would have been eligible for monthly social security benefits in that month if he or she had not died.

§ 408.11 Individual age 65 or over who is not eligible for social security or railroad retirement benefits.

(a) *Basis.* Section 103 of the law that established the Medicare program in 1965 (Pub. L. 89-97) provided for eligibility for certain individuals who were age 65 or would soon attain age 65 but would not be able to qualify for social security or railroad retirement benefits.

(b) *Requirements.* Unless he or she is excluded under paragraph (c) of this section, an individual age 65 or over who does not meet the requirements of § 408.10 (and who would not meet those requirements if he or she filed an application), is entitled to Medicare Part A benefits if he or she meets the following requirements:

(1) *Age and quarters of coverage.*

(i) He or she attained age 65 before 1968; or

(ii) If he or she attained age 65 in 1968 or later, he or she must have at least 3 quarters of coverage for each year that elapsed after 1968 and before the year in which he or she attained age 65. (The quarters of coverage may have been acquired at any time, not necessarily during the elapsed years.)

(2) *Residence and citizenship.* He or she is a resident of the United States and—

(i) A citizen of the United States; or

(ii) An alien lawfully admitted for permanent residence who has continuously resided in the United States for 5 years immediately preceding the first month in which he or she meets all other requirements for entitlement to hospital insurance.

(3) *Application.* He or she has filed an application for Medicare Part A no earlier than the 3 months before the first month of eligibility.

(c) *Bases for exclusion.* An individual who meets the requirements of paragraph (b) of this section is excluded from Medicare Part A if he or she—

(1) Has been convicted of spying, sabotage, or treason, sedition, and subversive action under chapter 37, 105, or 115 of title 18 of the United States Code;

(2) Has been convicted of conspiracy to establish a dictatorship under section 4 of the Internal Security Act of 1950;

(3) On February 16, 1965, was or could have been covered under the Federal Employees Health Benefits Act (FEHBA) of 1959; or

(4) In his or her first month of eligibility;

(i) Is covered by an enrollment under the FEHBA; or

(ii) Could have been covered by an enrollment under that Act if he or she (or any other person who could provide him or her with coverage) was a Federal employee at any time after February 15, 1965, and had enrolled and retained coverage under that Act.

(d) *End of exclusion.* An individual excluded under paragraph (c)(3) or (4) of this section can become entitled beginning with the first month in which he or she loses the right to FEHBA coverage solely because he or she or the other person leaves Federal employment.

(e) *Beginning and end of entitlement.*

(1) Entitlement begins—

(i) In the first month of eligibility if the application is filed no later than 12 months after the first month of eligibility;

(ii) In the 12th month before the month of application if the application is filed more than 12 months after the first month of eligibility.

(2) Entitlement continues until death or until the month before the month in which the individual becomes entitled under § 408.10.

§ 408.12 Individual under age 65, who is entitled to social security or railroad retirement disability benefits

(a) *Basic requirements.*

An individual under age 65 is entitled to hospital insurance benefits if, for 25 months, he or she has been—

(1) Entitled or deemed entitled to social security disability benefits as an insured individual, child, widow, or widower who is "under a disability" or

(2) A disabled qualified beneficiary certified under Section 7(d) of the Railroad Retirement Act.

(b) *Previous periods of disability benefit entitlement.*[1] Months of a previous period of entitlement or deemed entitlement to disability benefits will count toward the 25-month requirement if—

(1) Entitlement was an insured individual or a disabled qualified railroad retirement beneficiary, and the previous period ended within the 60 months preceding the month in which the current disability began; or

(2) Entitlement was as a disabled child, widow, or widower, and the previous period ended within the 84 months preceding the month in which the current disability began.

(c) *Deemed entitlement to disabled widow's or widower's monthly benefits.*

(1) *Purpose.* The provisions of paragraphs(c)(2), (3), and (4) of this section are intended to enable individuals—

(i) To meet the 25-month requirement of paragraph (a) of this section; or

(ii) To retain hospital insurance entitlement when they are no longer entitled to monthly disability benefits.

(2) *Deemed entitlement for certain individuals entitled to old-age insurance benefits.*

An individual who becomes entitled to monthly old-age insurance benefits before age 65, is, by law, precluded from establishing or retaining entitlement to disabled widow's or widower's monthly benefits. However, for purposes of meeting the 25-month requirement, a widow or widower who meets all other requirements for disability benefits and is excluded solely because of entitlement to old-age insurance benefits, shall be deemed to be (or to continue to be) entitled to disability benefits. A widow or widower who is not entitled to disability benefits for the month before attaining age 60 must file two applications, one for old-age insurance benefits and one for hospital insurance.

(3) *Deemed entitlement for certain individuals entitled to mother's benefits.* An individual entitled to mother's insurance benefits under section 202(g) of the Social Security Act cannot at the same time be entitled to disabled widow's benefits. However, if she applies for hospital insurance, she will be deemed to be entitled to disabled widow's monthly benefits in the first month (of the 12 months before application) in which she would have been entitled to those benefits if she had filed an application for them.

(4) *Deemed retroactive entitlement for certain disabled widows and widowers.* In some cases, disabled widows or widowers cannot become entitled to monthly cash benefits before the month in which they file application. However, for purposes of meeting the 25-month requirement, disability benefit entitlement will be deemed to have begun with the earliest month (of the 12 months before the application for cash benefits) in which the individual met all the requirements except the filing of an application. (This provision is effective for applications filed on or after January 1, 1978.)

(d) *When entitlement begins and ends.*

(1) Entitlement to hospital insurance begins with the 25th month of an individual's entitlement or deemed entitlement to disability benefits. Although an individual is not entitled to disability benefits for the month in which he or she dies, for purposes of this paragraph the individual will be deemed to be entitled for the month of death.

(2) Except as provided in paragraph (e) of this section, entitlement to hospital insurance ends with the earliest of the following:

(i) The last day of the last month in which he or she was entitled or deemed entitled to disability benefits or was qualified as a disabled railroad retirement beneficiary, if he or she was notified of the termination of entitlement before that month.

(ii) The last day of the month following the month in which he or she is mailed a notice that his or her entitlement or deemed entitlement to disability benefits, or his or her status as a qualified disabled railroad retirement beneficiary, has ended.

(iii) The last day of the month before the month he or she attains age 65. (An individual who is entitled to social security or railroad retirement cash benefits for the month of attainment of age 65 is automatically entitled to hospital insurance under § 408.10.)

(iv) The day of death.

(e) *Continuation of Medicare entitlement when disability benefit entitlement ends because of substantial gainful activity.* (1) *Definition.* As used in this paragraph (e), *"trial work period"* means the 9-month period provided under title II of the Act, during which the individual may test his or her ability to work and still receive disability cash benefits.

(2) *Duration of continued Medicare entitlement.* Effective December 1, 1980, if an individual's entitlement to disability benefits or status as a qualified disabled railroad retirement beneficiary ends because he or she engaged in, or demonstrated the ability to engage in, substantial gainful activity after the 15 months following the end of the trial work period, Medicare entitlement continues until the earlier of the following:

(i) The last day of the 24th month after the month in which the individual's entitlement to disability benefits or status as a qualified railroad retirement beneficiary ends if—

(A) The physical or mental impairment, on which that entitlement or status was based, continues through the 24-month period; and

(B) The individual remains otherwise eligible for disability benefits throughout this period.

(ii) The last day of the month following the month in which notice is mailed to the individual indicating that he or she is no longer entitled to hospital insurance because of an event or circumstance (e.g., the impairment has ceased, or the disabled widow has remarried) that would terminate disability benefit entitlement if it had not already been terminated because of substantial gainful activity.

§ 408.13 Individual who has end-stage renal disease.

(a) *Statutory basis and applicability.* This section explains the conditions of entitlement to hospital insurance benefits on the basis of end-stage renal disease, and specifies the beginning and end of the period of entitlement. It implements section 226A of the Social Security Act.

[1] Before December 1, 1980, the law required that the 25 months of disability entitlement be consecutive. The Social Security Disability Amendments of 1980 deleted that requirement.

(b) *Definitions.* As used in this section:

"End-stage renal disease" (ESRD) means that stage of kidney impairment that appears irreversible and permanent and requires a regular course of dialysis or kidney transplantation to maintain life.

"Child" or "spouse" means a child or spouse whose relationship to the parent or spouse meets the relationship requirements for entitlement to child's monthly social security benefits or to wife's, husband's, widow's, widower's, mother's or father's monthly benefits, as set forth in 20 CFR Part 404. However, the duration of relationship requirements apply only to divorced spouses. (See 20 CFR 404.331.)

"Dependent child" means a person who, on the first day he or she has end-stage renal disease, is unmarried and meets the dependency requirements for entitlement to child's social security benefits on the basis of a parent's earnings (see 20 CFR 404.350–404.365) and who—

(1) Is under age 22;

(2) Is under a disability that began before age 22; or

(3) Is under age 26, is receiving at least one-half support from that parent, and has continuously received at least one-half support from that parent since the day before attaining age 22.

"One-half support" means regular contributions, in cash or in kind, that equals or exceeds one-half of the child's total support.

(c) *Requirements.* An individual is entitled to hospital insurance benefits if—

(1) He or she is medically determined to have, ESRD;

(2) He or she is:

(i) Fully or currently insured under the social security program (title II of the Act) or would be fully or currently insured if his or her employment (after 1936) as defined under the Railroad Retirement Act were considered "employment" under the Social Security Act;

(ii) Entitled to monthly social security or railroad retirement benefits; or

(iii) The spouse or dependent child of a person who meets the requirements of paragraph (c)(2)(i) of (c)(2)(ii) of this section;

(3) He or she has filed an application for Medicare Part A; and

(4) He or she has satisfied the waiting period explained in paragraph (e) of this section.

(d) *Filing an application.*

(1) An individual may obtain an application form, and help in completing it, from any social security office.

(2) An application is not valid if it is filed earlier than the third month before the month in which the individual meets the conditions of paragraphs (c)(1), (c)(2), and (c)(4) of this section.

(3) If an individual who has ESRD dies before he or she has filed an application, or is unable to file because of physical or mental condition, a relative or other person responsible for his or her affairs may file in his or her behalf. If a responsible person is not available, the hospital or dialysis facility that furnished treatment may file the application.

(e) *Beginning of entitlement.*

(1) *Basic limitations.* Entitlement can begin no earlier than the first month in which the individual meets the conditions specified in paragraph (c) of this section, or the 12th month before the month of application, whichever is later.

(2) *Waiting period.* Entitlement begins on the first day of the third month after the month in which the individual initiates a regular course of renal dialysis, if the course is maintained throughout the waiting period, unless entitlement would begin earlier under paragraph (e) (3) or (4) of this section. This means that if dialysis began in January, entitlement would begin April 1.

(3) *Exceptions: Early kidney transplant.* If the individual receives a transplant, entitlement begins with the first day of the month in which the transplant was performed. However, if the individual is admitted as an inpatient to a hospital that is an approved renal transplantation center or renal dialysis center (see § 405.2102) for procedures preliminary to transplant surgery, entitlement begins—

(i) On the first day of the month in which he or she initially enters the hospital, if the transplant is performed in that month or in either of the next 2 months; or

(ii) On the first day of the second month before the month of kidney transplantation, if the transplant is delayed more than 2 months after the month of initial hospital stay.

For example, if an individual enters the hospital in January, and the transplant is performed in January, February, or March, entitlement would begin January 1. However, if the transplant is performed in April, entitlement would begin February 1.

(4) *Exceptions: Self-dialysis training.* Entitlement begins on the first day of the month in which a regular course of renal dialysis began if:

(i) Before the end of the waiting period, the individual participates in a self-dialysis training program offered by a participating Medicare facility that is approved to provide such training;

(ii) The patient's physician has certified that it is reasonable to expect the individual will complete the training program and will self-dialyze on a regular basis; and

(iii) The regular course of dialysis is maintained throughout the time that would otherwise be the waiting period (unless it is terminated earlier because the individual dies).

(f) *End of entitlement.* Entitlement ends with:

(1) The end of the 12th month after the month in which a course of dialysis ends, unless the individual receives a kidney transplant during that period or begins another regular course of dialysis; or

(2) The end of the 36th month after the month in which the individual has received a kidney transplant, unless the individual receives another kidney transplant or begins a regular course of dialysis during that period.

(g) *Resumption of entitlement.* An individual who initiates dialysis more than 36 months after the month of a kidney transplant or resumes dialysis more than 12 months after the month a previous course of dialysis ended must submit a new application but need not serve a waiting period. If he or she is otherwise entitled under the conditions specified in paragraph (c) of this section, and files an application, entitlement begins with the month in which dialysis is initiated or resumed, subject to the limitations of paragraph (e)(1) of this section.

Premium Hospital Insurance

§ 408.20 Basic requirements.

(a) *General provisions.* Hospital insurance benefits are available to most individuals age 65 or over who do not qualify for those benefits under §§ 408.10 through 408.13 of this subpart and are willing to pay a monthly premium. This is called premium hospital insurance.

(b) *Eligibility to enroll for premium hospital insurance.*

An individual is eligible to enroll for Medicare Part A if he or she.

(1) Has attained age 65;

(2) Is a resident of the United States and is either—

(i) A citizen of the United States; or

(ii) An alien lawfully admitted for permanent residence who has resided in the United States continuously for the 5-year period immediately preceding the month in which he or she meets all other requirements;

(3) Is not eligible for Part A benefits under §§ 408.10—408.13; and

(4) Is entitled to supplementary medical insurance (Part B of Medicare) or is eligible and has enrolled for it during an enrollment period.

§ 408.21 Enrollment and entitlement.

(a) *Basic provision.* An individual who meets the requirements of § 408.20(b) may enroll for premium hospital insurance only during his or her "initial enrollment period" or a "general enrollment period," as set forth in paragraphs (b) through (d) of this section.

(b) *Initial enrollment period.* (1) *Duration.* The initial enrollment period extends for 7 months, from the third month before the month the individual first meets the requirements of § 408.20 (b)(1) through (b)(3) through the third month after that first month of eligibility.

(2) *Effect of month of enrollment on entitlement.* (i) If the individual enrolls during the 3 months before the first month of eligibility, entitlement begins with the first month of eligibility.

(ii) If the individual enrolls in the first month of eligibility, entitlement begins with the following month.

(iii) If the individual enrolls during the month after the first month of eligibility, entitlement begins with the second month after the month of enrollment.

(iv) If the individual enrolls in either of the last 2 months of the enrollment period, entitlement begins with the third month after the month of enrollment.

(c) *General enrollment period.* (1) Except as specified in paragraph (c)(4) of this section, the general enrollment period extends from January 1 to March 31 of each calendar year.

(2) General enrollment periods are for individuals who fail to enroll during their initial enrollment periods or whose previous period of entitlements has terminated.

(3) If the individual enrolls or reenrolls during a general enrollment period, his or her entitlement begins on July 1 of the calendar year.

(4) During the period April 1 through September 30, 1981, the general enrollment period was any time after the end of the individual's initial enrollment period. Any eligible individual whose initial enrollment period has ended, or whose previous period of entitlement had terminated, could enroll or reenroll during that 6-month period.

(d) *"Deemed" initial enrollment period.* (1) If an individual fails to enroll during the initial enrollment period because of reliance on incorrect documentary information which led him or her to believe that he or she was not yet age 65, an initial enrollment period may be established for him or her as though he or she had attained age 65 on the date indicated by the incorrect documentary information.

(2) The deemed initial enrollment period will be used to determine the individual's premium and right to enroll in a general enrollment period if such use is advantageous to the individual.

§ 408.22 Monthly premiums.

(a) *General provisions.* (1) For months before July 1974, the monthly premium was $33.

(2) For months after June 1974, premiums have been determined for each 12-month period beginning July 1, and published in the **Federal Register** during the last quarter of the preceding calendar year.

(b) *Monthly premiums: Determination of dollar amount.* (1) The dollar amount is determined by multiplying $33 by the ratio of next year's inpatient deductible to $76, which was the inpatient deductible determined for 1973. (Because of cost controls, the deductible actually charged for that year was $72.)

(2) The amount determined by the mathematical formula is rounded to the nearest multiple of $1. (Fifty cents is rounded to the next higher dollar.)

(c) *Monthly premiums. Increase for late enrollment and for reenrollment.* For an individual who enrolls after the close of the initial enrollment period or reenrolls, the amount of the monthly premium, as determined under paragraph (b) of this section, is increased by 10% for each full 12 months in the periods described in §§ 408.23 and 408.24.

(d) *Collection of monthly premiums.* (1) HCFA will bill the enrollee on a monthly basis and include an addressed return envelope with the bill.

(2) The enrollee must pay by check or money order that is payable to "HCFA Medicare Insurance," and shows his or her name and the claim number that appears on his or her Medicare card. He or she must return the bill with the check or money order.

§ 408.23 Determination of months to be counted for premium increase: Enrollment.

(a) *Enrollment before April 1, 1981 or after September 30, 1981.* The months to be counted for premium increase are the months from the end of the initial enrollment period through the end of the general enrollment period in which the individual enrolls, excluding any months before September 1973.

(b) *Enrollment during the period April 1 through September 30, 1981.* The months to be counted for premium increase are the months from the end of the initial enrollment period through the month in which the individual enrolled, excluding any months before September 1973.

(c) *Examples.* (1) John F's initial enrollment period ended July 1979 but he did not enroll until January 1980. The months to be counted are August 1979 through March 1980. Since only 8 months elapsed, there is no premium increase.

(2) Mary T's initial enrollment period ended in April 1980 but she did not enroll until May 1981. The months to be counted are May 1980 through May 1981. Since 13 months has elapsed, the premium would be increased by 10 percent.

§ 408.24 Determination of months to be counted for premium increase: Reenrollment.

(a) *First reenrollment before April 1, 1981 or after September 30, 1981.* The months to be counted for premium increase are:

(1) The months specified in § 408.23(a) or (b); plus

(2) The months from the end of the first period of entitlement through the end of the general enrollement period in which the individual reenrolled.

(b) *First reenrollment during the period April 1, 1981* through September 30, 1981. The months to be counted for premium increase are—

(1) The months specified in § 408.23(a); plus

(2) The months from the end of the first period of entitlement through the month in which the individual reenrolled.

(c) *Subsequent reenrollment during the period April 1, 1981 through September 30, 1981.* The months to be counted for premium increase are—

(1) The months specified in paragraph (a) of this section; plus

(2) The months from April 1981 through the month in which the individual reenrolled for the second time. (Since only one reenrollment was permitted before April 1981, any months from the end of the individual's first enrollment period of entitlement through March 1981 are not counted.)

(d) *Subsequent reenrollment after September 30, 1981.* The months to be counted for premium increase are—

(1) The months specified in paragraph (a) or (b) of this section, for the first and second periods of coverage; plus

(2) The months from the end of each subsequent period of entitlement through the end of the general enrollment period in which the individual reenrolled, excluding any months before April 1981.

(e) *Example.* Peter M enrolled during his initial enrollment period, terminated his first coverage period in August 1979 and reenrolled for the first time in January 1980. The 7 months to be counted (September 1979 through March, 1980) were not enough to require any increase in the premium. Peter terminated his second period of coverage in February 1981 and reenrolled for the second time in July 1981. Since the 4 months (April through July 1981), when added to the previous 7 months, bring the total to only 11 months, no premium increase is required.

§ 408.25 Termination of entitlement.

Any of the following actions or events will terminate entitlement:

(a) *Filing of request for termination.* The beneficiary may at any time give HCFA or the Social Security Administration written notice that he or she no longer wishes to participate in the premium hospital insurance program.

(1) If he or she files the notice before entitlement begins, he or she will be deemed not to have enrolled.

(2) If he or she files the notice after entitlement begins, that entitlement will end at the close of the month following the month in which he or she filed the notice.

(b) *Eligibility for hospital insurance without premiums.* (1) If an individual meets the eligibility requirements for hospital insurance specified in § 408.10 or § 408.11, entitlement to premium hospital insurance ends with the month before the month in which he or she meets those requirements.

(2) If an individual meets the requirements of § 408.10 or § 408.11, he or she will be deemed to have filed the required application for hospital insurance benefits in his or her first month of eligibility under that section.

(c) *Termination of supplementary medical insurance.* If an individual's entitlement to supplementary medical insurance ends for any reason, entitlement to premium hospital insurance will end on the same date.

(d) *Nonpayment of premium.* (1) If an individual fails to pay the premium bill, entitlement will end on the last day of the third month after the billing month.

(2) HCFA may reinstate entitlement if the individual shows good cause for failure to pay on time, and pays all overdue premiums within 3 calendar months after the date specified in paragraph (d)(1) of this section.

(e) *Death.* Entitlement ends with the day of death. (A premium is due for the month of death.)

§ 408.26 Prejudice to enrollment rights because of Federal Government error.

(a) If an individual's enrollment or nonenrollment for premium hospital insurance is unintentional, inadvertent, or erroneous because of the error, misrepresentation, or inaction of a Federal employee, or any person authorized by the Federal Government to act on its behalf, the Social Security Administration or HCFA may take whatever action it determines is necessary to provide appropriate relief.

(b) The action may include—

(1) Designation of a special initial or general enrollment period;

(2) Designation of an entitlement period;

(3) Adjustment of premiums;

(4) Any combination of the actions specified in paragraph (b) (1) through (3) of this section; or

(5) Any other remedial action which may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

Special Circumstances That Affect Entitlement

§ 408.30 Nonpayment of benefits on behalf of certain aliens.

(a) Hospital insurance benefit payments may not be made for services furnished to an alien in any month in which his or her monthly social security benefits are suspended (or would be suspended if he or she were entitled to those benefits) because the alien remains outside the United States for more than 6 months.

(b) Benefits will be payable beginning with services furnished in the first full calendar month the alien is back in the United States.

§ 408.31 Conviction of certain offenses.

(a) *Penalty that affects entitlement.*

(1) If an individual is convicted of any of the crimes listed in § 408.11(c) (1) and (2), the court may impose, in addition to all other penalties, a penalty that affects entitlement to hospital insurance, beginning with the month of conviction.

(2) The additional penalty is that the individual's income (or the income of the insured individual on whose earnings record he or she became or seeks to become entitled) for the year of conviction and any previous year may not be counted in determining the insured status necessary for entitlement to hospital insurance.

(b) *Effect of pardon.* If the President of the United States pardons the convicted individual, that individual regains (or may again seek) entitlement effective with the month following the month in which the pardon is granted.

E. A new Part 409 is added, to read as follows:

PART 409—MEDICARE BENEFITS, LIMITATIONS, AND EXCLUSIONS

Subpart A—Hospital Insurance

General Provisions

Sec.

Inpatient Hospital Services

Posthospital SNF Care

Requirements for Coverage of Posthospital SNF Care

Home Health Services

Scope of Benefits

Sec.

Deductibles and Coinsurance

Authority: Secs. 1102, 1812, 1813, 1814, 1861, 1866, 1871, 1881, and 1883 of the Social Security Act (42 U.S.C. 1302, 1395d, 1395e, 1395f, 1395x 1395cc, 1395hh, 1395rr, and 1395tt).

Subpart A—Hospital Insurance

General Provisions

§ 409.1 Statutory basis.

Sections 1812 and 1813 of the Social Security Act establish the scope of benefits of the hospital insurance program under Medicare Part A and set forth the deductible and coinsurance requirements.

§ 409.2 Scope.

This subpart describes the benefits available under Medicare Part A and sets forth the limitations on those benefits, including certain amounts of payment for which beneficiaries are responsible.

§ 409.3 Definitions.

As used in this subpart, unless the context indicates otherwise—

"Arrangements" means arrangements which provide that Medicare payment made to the provider that arranged for the services discharges the liability of the beneficiary or any other person to pay for those services.

"Covered" refers to services for which the law and the regulations authorize Medicare payment.

"Participating" refers to a hospital or other facility that meets the conditions of participation and has in effect a Medicare provider agreement.

"Qualified hospital" means a facility that—

(a) Is primarily engaged in providing, by or under the supervision of doctors of medicine or osteopathy, inpatient services for the diagnosis, treatment, and care or rehabilitation of persons who are sick, injured, or disabled;

(b) Is not primarily engaged in providing skilled nursing care and related services for inpatients who require medical or nursing care;

(c) Provides 24-hour nursing service in accordance with Sec. 1861(e)(5) of the Act;

(d) If it is a U.S. hospital, is licensed, or approved as meeting the standards for licensing, by the State or local licensing agency; and

(e) If it is a foreign hospital, is licensed, or approved as meeting the standard for licensing, by the appropriate Canadian or Mexican licensing agency, and for purposes of furnishing non-emergency services to U.S. residents, is accredited by the Joint Commission on Accreditation of Hospitals (JCAH), or by a Canadian or Mexican program under standards that HCFA finds to be equivalent to those of the JCAH.

§ 409.5 General description of benefits.

Hospital insurance (Part A of Medicare) helps pay for inpatient hospital services and posthospital SNF care. It also pays for home health services. There are limitations on the number of days of care that Medicare can pay for and there are deductible and coinsurance amounts for which the beneficiary is responsible. For each type of service, certain conditions must be met, as specified in the pertinent sections of this subpart.

The special conditions for inpatient hospital services furnished by a qualified U.S., Canadian, or Mexican hospital are set forth in Part 405, Subpart A of this chapter.

Inpatient Hospital Services

§ 409.10 Included services.

(a) Subject to the conditions, limitations, and exceptions in paragraph (b) of this section and in §§ 409.11 through 409.18, the term "inpatient hospital services" means the following services furnished to an inpatient of a participating hospital or, in the case of emergency services or services in foreign hospitals, to an inpatient of a qualified hospital:

(1) Bed and board;

(2) Nursing services and other related services;

(3) Use of hospital facilities;

(4) Medical social services;

(5) Drugs, biologicals, supplies, appliances, and equipment;

(6) Certain other diagnostic or therapeutic services; and

(7) Medical or surgical services provided by certain interns or residents-in-training.

(b) "Inpatient hospital services" does not include SNF-type care or intermediate care facility (ICF)-type care furnished by a hospital that has a swing-bed approval.

§ 409.11 Bed and board.

(a) *Semiprivate and ward accommodations.* Except for applicable deductible and coinsurance amounts, Medicare Part A pays in full for bed and board and semiprivate (2 to 4 beds), or ward (5 or more beds) accommodations.

(b) *Private accommodations.* (1) *Conditions for payment in full.* Except for applicable deductible and coinsurance amounts, Medicare Part A pays in full for a private room if—

(i) The patient's condition requires him or her to be isolated;

(ii) The hospital has no semiprivate or ward accommodations; or

(iii) The hospital's semiprivate and ward accommodations are fully occupied by other patients, were so occupied at the time the patient was admitted to the hospital for treatment of a condition that required immediate inpatient hospital care, and have been so occupied during the interval.

(2) *Period of payment.* In the situations specified in paragraph (b)(1) (i) and (iii) of this section, Medicare pays for a private room until the patient's condition no longer requires isolation or until semiprivate or ward accommodations are available.

(3) *Conditions for patient's liability.* The hospital may charge the patient the difference between its customary charge for the private room and its most prevalent charge for a semiprivate room if—

(i) None of the conditions of paragraph (b)(1) of this section is met; and

(ii) The private room was requested by the patient or a member of the family, who, at the time of the request, was informed what the hospital's charge would be.

§ 409.12 Nursing and related services, medical social services; use of hospital facilities.

(a) Medicare pays for nursing and related services, use of hospital facilities, and medical social services as inpatient hospital services only if those services are ordinarily furnished by the hospital for the care and treatment of inpatients.

(b) Except as specified in paragraph (c) of this section, Medicare does not pay for the services of a private duty nurse or attendant.

(c) Medicare pays for services furnished by a nurse or attendant who is a bona fide employee of the hospital during the time he or she provides the services. Medicare pays for the services

of a private duty nurse or attendant employed by the hospital only if the beneficiary's condition requires such services.

§ 409.13 Drugs and biologicals.

(a) Except as specified in paragraph (b) of this section, Medicare pays for drugs and biologicals as inpatient hospital services only if—

(1) They represent a cost to the hospital;

(2) They are ordinarily furnished by the hospital for the care and treatment of inpatients; and

(3) They are furnished to an inpatient for use in the hospital.

(b) *Exception.* Medicare pays for a limited supply of drugs for use outside the hospital if it is medically necessary to facilitate the beneficiary's departure from the hospital and required until he or she can obtain a continuing supply.

§ 409.14 Supplies, appliances, and equipment.

(a) Except as specified in paragraph (b) of this section, Medicare pays for supplies, appliances, and equipment as inpatient hospital services only if—

(1) They are ordinarily furnished by the hospital to inpatients; and

(2) They are furnished to inpatients for use in the hospital.

(b) *Exceptions.* Medicare pays for items to be used beyond the hospital stay if—

(1) The item is one that the beneficiary must continue to use after he or she leaves the hospital, for example, heart valves or a heart pacemaker, or

(2) The item is medically necessary to permit or facilitate the beneficiary's departure from the hospital and is required until the beneficiary can obtain a continuing supply. Tracheostomy or draining tubes are examples.

§ 409.15 Services furnished by an intern or a resident-in-training.

Medical or surgical services provided by an intern or a resident-in-training are included as "inpatient hospital services" if they are provided—

(a) By an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association, or the Bureau of Professional Education of the American Osteopathic Association;

(b) By an intern or a resident-in-training in the field of dentistry under a teaching program approved by the Council on Dental Education of the American Dental Association; or

(c) By an intern or a resident-in-training in the field of podiatry under a teaching program approved by the Council on Podiatry Education of the American Podiatry Association.

§ 409.16 Other diagnostic or therapeutic services.

Diagnostic or therapeutic services other than those provided for in §§ 409.12, 409.13, and 409.14 are considered as inpatient hospital services if—

(a) They are furnished by the hospital, or by others under arrangements made by the hospital;

(b) Billing for those services is through the hospital; and

(c) The services are of a kind ordinarily furnished to inpatients either by the hospital or under arrangements made by the hospital.

§ 409.18 Services related to kidney transplantations.

(a) *Kidney transplants.* Medicare pays for kidney transplantation surgery only if performed in a renal transplantation center approved under Subpart U of Part 405 of this chapter.

(b) *Services in connection with kidney donations.* Medicare pays for services related to the evaluation or preparation of a potential or actual donor, to the donation of the kidney, or to postoperative recovery services directly related to the kidney donation—

(1) If the kidney is intended for an individual who has ESRD and is entitled to Medicare benefits or can be expected to become so entitled within a reasonable time; and

(2) Regardless of whether the donor is entitled to Medicare.

Posthospital SNF Care

§ 409.20 Coverage of services

(a) *Included services.* Subject to the conditions and limitations set forth in paragraph (b) of this section and in §§ 409.22–409.35, "posthospital SNF care" means the following services furnished to an inpatient of a participating SNF or a hospital that has a swing-bed approval.

(1) Nursing care provided by or under the supervision of a registered professional nurse;

(2) Bed and board in connection with the furnishing of that nursing care;

(3) Physical, occupational, or speech therapy;

(4) Medical social services;

(5) Drugs, biologicals, supplies, appliances, and equipment;

(6) Certain medical services provided by an intern or resident-in-training;

(7) Certain other diagnostic or therapeutic services; and

(8) Other services that are necessary to the health of the patient and are generally provided by SNFs.

(b) *Excluded services.* (1) *Services that are not considered inpatient hospital services.* No service is included as posthospital SNF care if it would not be included as an inpatient hospital service under §§ 409.11 through 409.18.

(2) *Services not generally provided by SNFs.* Except as specifically listed in §§ 409.22 through 409.27, only those services generally provided by SNFs are considered as posthospital SNF care. For example, if an individual is furnished the use of an operating room by a SNF, that service is not included as "posthospital SNF care" because SNFs generally do not maintain operating rooms.

(c) *Terminology.* In §§ 409.22 through 409.36—

(1) The terms "SNF" and "swing-bed hospital" are used when the context applies to the particular facility.

(2) The term "facility" is used to mean both SNFs and swing-bed hospitals.

§ 409.22 Bed and board.

(a) *Semiprivate and ward accommodations.* Except for applicable deductible and coinsurance amounts Medicare Part A pays in full for semiprivate (2 to 4 beds), or ward (5 or more beds) accommodations.

(b) *Private accommodations.* (1) *Conditions for payment in full.* Except for applicable coinsurance amounts, Medicare pays in full for a private room if—

(i) The patient's condition requires him to be isolated;

(ii) The SNF has no semiprivate or ward accommodations; or

(iii) The SNF semiprivate and ward accommodations are fully occupied by other patients, were so occupied at the time the patient was admitted to the SNF for treatment of a condition that required immediate inpatient SNF care, and have been so occupied during the interval.

(2) *Period of payment.* In the situations specified in paragraph (b)(1) (i) and (iii) of this section. Medicare pays for a private room until the patient's condition no longer requires isolation or until semiprivate or ward accommodations are available.

(3) *Conditions for patient's liability.* The facility may charge the patient the difference between its customary charge for the private room furnished and its most prevalent charge for a semiprivate room if:

(i) None of the conditions of paragraph (b)(1) of this section is met and

(ii) The private room was requested by the patient or a member of the family

who, at the time of request was informed what the charge would be.

§ 409.23 Physical, occupational, and speech therapy.

Medicare pays for physical, occupational, or speech therapy is posthospital SNF care if—

(a) It is furnished by the facility or under arrangements made by the facility, and

(b) Billing for the therapy is by or through the facility.

§ 409.24 Drugs and biologicals.

(a) Except as specified in paragraph (b) of this section. Medicare pays for drugs and biologicals as posthospital SNF care only if—

(1) They represent a cost to the facility;

(2) They are ordinarily furnished by the facility for the care and treatment of inpatients; and

(3) They are furnished to an inpatient for use in the facility.

(b) *Exception.* Medicare pays for a limited supply of drugs for use outside the facility if it is medically necessary to facilitate the beneficiary's departure from the facility and required until he or she can obtain a continuing supply.

§ 409.25 Supplies, appliances, and equipment.

(a) Except as specified in paragraph (b) of this section. Medicare pays for supplies, appliances, and equipment as posthospital SNF only if—

(1) They are ordinarily furnished by the facility to inpatients; and

(2) They are furnished to inpatients for use in the facility.

(b) *Exception.* Medicare pays for items to be used after the individual leaves the facility if—

(1) The item is one that the beneficiary must continue to use after leaving, such as a leg brace; or

(2) The item is necessary to permit or facilitate the beneficiary's departure from the facility and is required until he or she can obtain a continuing supply. Sterile dressings would be an example.

§ 409.26 Services furnished by an intern or a resident-in-training.

Medicare pays for medical services furnished by an intern or a resident-in-training as posthospital SNF care if—

(a) The intern or resident is in a participating hospital with which the SNF has in effect an agreement for the transfer of patients and exchange of medical records or in a hospital that has a swing-bed approval; and

(b) The intern or resident furnishes the services under a hospital teaching program approved in accordance with the provisions of §409.15.

§ 409.27 Other diagnostic of therapeutic services.

Medicare pays for other diagnostic or therapeutic services as posthospital SNF care if provided by a participating hospital with which the SNF has in effect an agreement for the transfer of patients and exchange of clinical records, or by a hospital that has a swing-bed approval.

Requirements for Coverage of Posthospital SNF Care

§ 409.30 Basic requirements.

Posthospital SNF care, including SNF-type care furnished in a hospital that has a swing-bed approval, is covered only if the beneficiary meets the requirements of this section and only for days when he or she needs and receives care of the level described in § 409.31.

(a) *Pre-admission requirements.* The beneficiary must—

(1) Have been hospitalized in a participating or qualified hospital, for medically necessary inpatient hospital care, for at least 3 consecutive calendar days, not counting the day of discharge; and

(2) Have been discharged from the hospital in a month for which he or she was entitled to hospital insurance benefits, in accordance with Part 408 of this chapter.

(b) *Date of admission requirements.*[1]

(1) Except as specified in paragraph (b)(2) of this section, the beneficiary must be in need of posthospital SNF care, be admitted to the facility, and receive the needed care within 30 calendar days after the date of discharge from a hospital.

(2) *Exception.* A beneficiary for whom posthospital SNF care would not be medically appropriate within 30 days after discharge from the hospital may be admitted at the time it would be medically appropriate to begin an active course of treatment.

§ 409.31 Level of care requirement.

(a) *Definition.* As used in this section, "skilled nursing and skilled rehabilitation services" means services that:

(1) Are ordered by a physician;

(2) Require the skills of technical or professional personnel such as registered nurses, licensed practical (vocational) nurses, physical therapists, occupational therapists, and speech pathologists or audiologists; and

(3) Are furnished directly by, or under the supervision of, such personnel.

(b) *Specific conditions for meeting level of care requirements.*

(1) The beneficiary must require skilled nursing or skilled rehabilitation services, or both, on a daily basis.

(2) Those services must be furnished for a condition—

(i) For which the beneficiary received inpatient hospital services; or

(ii) Which arose while the beneficiary was receiving care in a SNF or swing-bed hospital for a condition for which he or she received inpatient hospital services.

(3) The daily skilled services must be ones that, as a practical matter, can only be provided in a SNF, on an inpatient basis.

§ 409.32 Criteria for skilled services and the need for skilled services.

(a) The service must be so inherently complex that it can be safely and effectively performed only by, or under the supervision of, professional or technical personnel.

(b) A condition that does not ordinarily require skilled services may require them because of special medical complications. Under those circumstances, a service that is usually nonskilled (such as those listed in § 409.33(d)) may be considered skilled because it must be performed or supervised by skilled nursing or rehabilitation personnel. For example, a plaster cast on a leg does not usually require skilled care. However, if the patient has a preexisting acute skin condition or needs traction, skilled personnel may be needed to adjust traction or watch for complications. In situations of this type, the complications, and the skilled services they require, must be documented by physicians' orders and nursing or therapy notes.

(c) The restoration potential of a patient is not the deciding factor in determining whether skilled services are needed. Even if full recovery or medical improvement is not possible, a patient may need skilled services to prevent further deterioration or preserve current capabilities. For example, a terminal cancer patient may need some of the skilled services described in § 409.33.

§ 409.33 Examples of skilled nursing and rehabilitation services.

(a) *Services that could qualify as either skilled nursing or skilled rehabilitation services (1) Overall management and evaluation of care*

[1] Before December 5, 1980, the law required that admission and receipt of care be within 14 days after discharge from the hospital and permitted admission up to 28 days after discharge if a SNF bed was not available in the geographic area in which the patient lived, or at the time it would be medically appropriate to begin an active course of treatment, if SNF care would not be medically appropriate within 14 days after discharge.

plan. The development, management, and evaluation of a patient care plan based on the physician's orders constitute skilled services when, because of the patient's physical or mental condition, those activities require the involvement of technical or professional personnel in order to meet the patient's needs, promote recovery, and ensure medical safety. This would include the management of a plan involving only a variety of personal care services when, in light of the patient's condition, the aggregate of those services requires the involvement of technical or professional personnel. For example, an aged patient with a history of diabetes mellitus and angina pectoris who is recovering from an open reduction of a fracture of the neck of the femur requires, among other services, careful skin care, appropriate oral medications, a diabetic diet, an exercise program to preserve muscle tone and body condition, and observation to detect signs of deterioration in his or her condition or complications resulting from restricted, but increasing, mobility. Although any of the required services could be performed by a properly instructed person, such a person would not have the ability to understand the relationship between the services and evaluate the ultimate effect of one service on the other. Since the nature of the patient's condition, age, and immobility create a high potential for serious complications, such an understanding is essential to ensure the patient's recovery and safety. Under these circumstances, the management of the plan of care would require the skills of a nurse even though the individual services are not skilled. Skilled planning and management activities are not always specifically identified in the patient's clinical record. Therefore, if the patient's overall condition would support a finding that recovery and safety can be assured only if the total care is planned, managed, and evaluated by technical or professional personnel, it would be appropriate to infer that skilled services are being provided.

(2) *Observation and assessment of the patient's changing condition.* Observation and assessment constitute skilled services when the skills of a technical or professional person are required to identify and evaluate the patient's need for modification of treatment for additional medical procedures until his or her condition is stabilized. For example, a patient with congestive heart failure may require continuous close observation to detect signs of decompensation, abnormal fluid balance, or adverse effects resulting from prescribed medication(s) which serve as indicators for adjusting therapeutic measures. Likewise, surgical patients transferred from a hospital to a skilled nursing facility while in the complicated, unstabilized postoperative period, e.g., after hip prosthesis or cataract surgery, may need continued close skilled monitoring for postoperative complications, and adverse reaction. Patients who, in addition to their physical problems, exhibit acute psychological symptoms such as depression, anxiety, or agitation, etc., may also require skilled observation and assessment by technical or professional personnel to assure their safety and/or the safety of others, i.e., to observe for indications of suicidal or hostile behavior. The need for services of this type must be documented by physicians' orders and/or nursing or therapy notes.

(3) *Patient education services.* Patient education services are skilled services if the use of technical or professional personnel is necessary to teach a patient self-maintenance. For example, a patient who has had a recent leg amputation needs skilled rehabilitation services provided by technical or professional personnel to provide gait training and to teach prosthesis care. Likewise, a patient newly diagnosed with diabetes requires instruction from technical or professional personnel to learn the self-administration of insulin or foot-care precautions, etc.

(b) *Services that qualify as skilled nursing services.* (1) Intravenous, intramuscular, or subcutaneous injections and hypodermoclysis or intravenous feeding;

(2) Levin tube and gastrostomy feedings;

(3) Nasopharyngeal and tracheostomy aspiration;

(4) Insertion and sterile irrigation and replacement of catheters;

(5) Application of dressings involving prescription medications and aseptic techniques;

(6) Treatment of extensive decubitus ulcers or other widespread skin disorder;

(7) Heat treatments which have been specifically ordered by a physician as part of active treatment and which require observation by nurses to adequately evaluate the patient's progress;

(8) Initial phases of a regimen involving administration of medical gases;

(9) Rehabilitation nursing procedures, including the related teaching and adaptive aspects of nursing, that are part of active treatment, e.g., the institution and supervision of bowel and bladder training programs.

(c) *Services which would qualify as skilled rehabilitation services.* (1) Ongoing assessment of rehabilitation needs and potential: Services concurrent with the management of a patient care plan, including tests and measurements of range of motion, strength, balance, coordination, endurance, functional ability, activities of daily living, perceptual deficits, speech and language or hearing disorders;

(2) Therapeutic exercises or activities: Therapeutic exercises or activities which, because of the type of exercises employed or the condition of the patient, must be performed by or under the supervision of a qualified physical therapist or occupational therapist to ensure the safety of the patient and the effectiveness of the treatment;

(3) Gait evaluation and training: Gait evaluation and training furnished to restore function in a patient whose ability to walk has been impaired by neurological, muscular, or skeletal abnormality;

(4) Range of motion exercises: Range of motion exercises which are part of the active treatment of a specific disease state which has resulted in a loss of, or restriction of, mobility (as evidenced by a therapist's notes showing the degree of motion lost and the degree to be restored);

(5) Maintenance therapy; Maintenance therapy, when the specialized knowledge and judgment of a qualified therapist is required to design and establish a maintenance program based on an initial evaluation and periodic reassessment of the patient's needs, and consistent with the patient's capacity and tolerance. For example, a patient with Parkinson's disease who has not been under a rehabilitation regimen may require the services of a qualified therapist to determine what type of exercises will contribute the most to the maintenance of his present level of functioning.

(6) Ultrasound, short-wave, and microwave therapy treatment by a qualified physical therapist;

(7) Hot pack, hydrocollator, infrared treatments, paraffin baths, and whirlpool; Hot pack hydrocollator, infrared treatments, paraffin baths, and whirlpool in particular cases where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures, or other complications, and the skills, knowledge, and judgment of a qualified physical therapist are required; and

(8) Services of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing.

(d) *Personal care services.* Personal care services which do not require the skills of qualified technical or professional personnel are not skilled services except under the circumstances specified in § 409.32(b). Personal care services include, but are not limited to, the following:

(1) Administration of routine oral medications, eye drops, and ointments;

(2) General maintenance care of colostomy and ileostomy;

(3) Routine services to maintain satisfactory functioning of indwelling bladder catheters;

(4) Changes of dressings for noninfected postoperative or chronic conditions;

(5) Prophylatic and palliative skin care, including bathing and application of creams, or treatment of minor skin problems;

(6) Routine care of the incontinent patient, including use of diapers and protective sheets;

(7) General maintenance care in connection with a plaster cast;

(8) Routine care in connection with braces and similar devices;

(9) Use of heat as a palliative and comfort measure, such as whirlpool and hydrocollator;

(10) Routine administration of medical gases after a regimen of therapy has been established;

(11) Assistance in dressing, eating, and going to the toilet;

(12) Periodic turning and positioning in bed; and

(13) General supervision of exercises which have been taught to the patient; including the actual carrying out of maintenance programs, i.e., the performance of the repetitive exercises required to maintain function do not require the skills of a therapist and would not constitute skilled rehabilitation services (see paragraph (c) of this section). Similarly, repetitious exercises to improve gait, maintain strength, or endurance; passive exercises to maintain range of motion in paralyzed extremities, which are not related to a specific loss of function; and assistive walking do not constitute skilled rehabilitation services.

§ 409.34 Criteria for "daily basis".

(a) To meet the daily basis requirement specified in § 409.31(b)(1) the following frequency is required:

(1) Skilled nursing services or skilled rehabilitation services must be needed and provided 7 days a week; or

(2) As an exception, if skilled rehabilitation services are not available 7 days a week those services must be needed and provided at least 5 days a week.

(b) A break of one or two days in the furnishing of rehabilitation services will not preclude coverage if discharge would not be practical for the one or two days during which, for instance, the physician has suspended the therapy sessions because the patient exhibited extreme fatigue.

§ 409.35 Criteria for "practical matter".

(a) *General considerations.* In making a "practical matter" determination, as required by § 409.31(b)(3), consideration must be given to the patient's condition and to the availability and feasibility of using more economical alternative facilities and services. However, in making that determination, the availability of Medicare payment for those services may not be a factor. Example: The beneficiary can obtain daily physical therapy from a physical therapist in independent practice. However, Medicare pays only the appropriate portion (after deduction of applicable deductible and coinsurance amounts) of the first $100 of services furnished by such a practitioner in a year. This limitation on payment may not be a basis for finding that the needed care can only be provided in a SNF.

(b) *Examples of circumstances that meet practical matter criteria.* (1) *Beneficiary's condition.* Inpatient care would be required "as a practical matter" if transporting the beneficiary to and from the nearest facility that furnishes the required daily skilled services would be an excessive physical hardship.

(2) *Economy and efficiency.* Even if the beneficiary's condition does not preclude transportation, inpatient care might be more efficient and less costly if, for instance, the only alternative is daily transportation by ambulance.

§ 409.36 Effect of discharge from posthospital SNF care.

If a beneficiary is discharged from a facility after receiving posthospital SNF care, he or she is not entitled to additional services of this kind in the same benefit period unless—

(a) He or she is readmitted to the same or another facility within 30 calendar days following the day of discharge (or, before December 5, 1980, within 14 calendar days after discharge); or

(b) He or she is again hospitalized for at least 3 consecutive calendar days.

Home Health Services

§ 409.40 Included services.

Subject to the requirements and conditions set forth in § 409.42, "home health services" means the following items and services:

(a) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy;

(c) Medical social services provided under the direction of a physician;

(d) Part-time or intermittent services of a home health aide;

(e) Medical supplies (other than drugs and biologicals) and the use of medical appliances; and

(f) In the case of a home health agency (HHA) that is affiliated or under common control with a hospital, medical services provided by an intern or a resident-in-training of that hospital under a teaching program approved as provided in § 409.15.

§ 409.41 Excluded services.

(a) *Services that are not considered inpatient hospital services.* No service is included as a home health service if it would not be included as an inpatient hospital service under §§ 409.11—409.18.

(b) *Transportation.* Transportation required to take a homebound individual to a hospital, SNF, rehabilitation center or other place, to receive services that cannot be provided in the home, is not included as a home health service.

(c) *Housekeeping services.* The services of housekeepers or food service arrangements such as "meals-on-wheels" programs are not included as home health services.

§ 409.42 Requirements and conditions for home health services.

(a) *Basic rule.* The services specified in § 409.40 are covered by Medicare Part A only if the requirements of paragraphs (b) through (g) of this section are met.

(b) *Conditions the beneficiary must meet.* The beneficiary must be—

(1) Confined to the home or in an institution that is neither a hospital nor primarily engaged in providing skilled nursing or rehabilitation services;

(2) Under the care of a physican who is a doctor of medicine or osteopathy; and

(3) In need of intermittent skilled nursing care or physical or speech therapy or, effective July 1 through November 30, 1981, occupational therapy. After November 30, 1981, continued need for occupational therapy is not a basis for initial qualification for

home health services but does qualify a beneficiary for continued home health services even after he or she no longer needs intermittent skilled nursing care or physical or speech therapy.

(c) *Prior inpatient care requirement.* (1) For home health services furnished before July 1, 1981, the beneficiary must—

(i) Have received inpatient care in a participating or qualified hospital or SNF; and

(ii) Need intermittent skilled nursing care or physical or speech therapy for a condition for which he or she received inpatient hospital or posthospital SNF care.

(2) For home health services furnished after June 30, 1981, the requirements of paragraph (c)(1) of this section do not apply.

(d) *Plan of treatment requirements.* (1) The home health services must be furnished under a plan of treatment that is established and periodically reviewed by a doctor of medicine or osteopathy or, after December 31, 1980, by a doctor of podiatric medicine. A doctor of podiatric medicine may establish a plan of treatment only if that is consistent with the home health agency's policy and with the functions he or she is authorized to perform under State law.

(2) A plan of treatment established before July 1, 1981 must be established within 14 days after the individual's discharge from a hospital or SNF.

(3) For a plan of treatment established after June 30, 1981, the requirement of paragraph (d)(2) of this section does not apply.

(e) *Where the services must be furnished.* (1) The home health services must be furnished—

(i) On a visiting basis in the individual's home; or

(ii) If it is necessary to use equipment that cannot readily be made available in the home, on an outpatient basis in a hospital, a SNF, or a rehabilitation center that meets State and local health and safety standards.

(2) If an individual is brought to a facility in accordance with paragraph (e)(1)(ii) of this section, other services that could be furnished in the home may be furnished in the facility at the same time.

(f) *When the services must be furnished.* Before July 1, 1981, the home health services must be furnished within the time frames specified in § 409.61(d).

(g) *By whom the services must be furnished.* The home health services must be furnished by, or under arrangements made by a participating HHA.

§ 409.43 Home health service visit.

(a) *What constitutes a "visit".* A visit is charged each time a health worker furnishes home health services to the beneficiary.

(b) *Specific examples.* (1) If both a physical therapist and a visiting nurse furnish services in the home on the same day, two visits are charged.

(2) If a beneficiary has dressings changed twice in the same day, two visits are charged.

(3) If a beneficiary is brought to the hospital for hydrotherapy, and while there also receives speech therapy, two visits are charged.

(4) If a nurse furnishes several services during the same visit (e.g., skilled nursing care and home health aide services), only one visit is charged.

§ 409.44 Home health services under Medicare Part B.

Home health services are also provided under the supplementary medical insurance program, as set forth in Subpart B of Part 405 of this chapter.

§ 409.45 Option for beneficiaries who need physical or speech therapy.

A beneficiary who needs physical therapy or speech pathology services could, if he is also enrolled in Medicare Part B, receive them on an outpatient basis as a medical and other health service under Part B, and use the Part A and Part B home health visits for other purposes.

Scope of Benefits

§ 409.60 Benefit periods.

(a) *When benefit periods begin.* The initial benefit period begins on the day the beneficiary receives inpatient hospital or SNF services for the first time after becoming entitled to hospital insurance. Thereafter, a new benefit period begins whenever the beneficiary receives inpatient services upon admission to a participating hospital or SNF (or one that meets the requirements for participation), after he or she has, for a least 60 consecutive days, not been an inpatient in any hospital, or SNF, or other institution that primarily provides skilled nursing or rehabilitation services.

(b) *Relation of benefit period to benefit limitations.* The limitations specified in §§ 409.61 and 409.64, and the deductible and coinsurance requirements set forth in §§ 409.82 through 409.87 apply for each benefit period. The limitations of § 409.63 apply only to the initial benefit period.

§ 409.61 General limitations on amount of benefits.

(a) *Inpatient hospital services.* (1) *Regular benefit days.* Up to 90 days are available in each benefit period, subject to the limitations on days for psychiatic hospital services set forth in §§ 409.62 and 409.63.

(i) For the first 60 days (referred to in this subpart as *full benefit days*). Medicare pays the hospital for all covered services furnished the beneficiary, except for a deductible which is the beneficiary's responsibility. (Section 409.82 specifies the requirements for the inpatient hospital deductible.)

(ii) For the next 30 days (referred to in this subpart as *coinsurance days*), Medicare pays for all covered services except for a daily coinsurance amount, which is the beneficiary's responsibility. (Section 409.83 specifies the inpatient hospital coinsurance amounts.)

(2) *Lifetime reserve days.* Each beneficiary has a non-renewable lifetime reserve of 60 days of inpatient hospital services that he may draw upon whenever he is hospitalized for more than 90 days in a benefit period. Upon exhaustion of the regular benefit days, the reserve days will be used unless the beneficiary elects not to use them, as provided in § 409.65. For lifetime reserve days, Medicare pays for all covered services except for a daily coinsurance amount that is the beneficiary's responsibility. (See § 409.83.)

(3) *Order of payment for inpatient hospital services.* Medicare pays for inpatient hospital services in the following order.

(i) The 60 full benefit days;

(ii) The 30 coinsurance days;

(iii) The remaining lifetime reserve days.

(b) *Posthospital SNF care.* Up to 100 days are available in each benefit period after discharge from a hospital. For the first 20 days, Medicare pays for all covered services. For the 21st through 100th day, Medicare pays for all covered services except for a daily coinsurance amount that is the beneficiary's responsibility. (Section 409.85 specifies the SNF coinsurance amounts.)

(c) *Renewal of inpatient benefits.* The beneficiary's full entitlement to the 90 inpatient hospital regular benefit days, and the 100 SNF benefit days, is renewed each time he or she begins a benefit period. However, once lifetime reserve days are used, they can never be renewed.

(d) *Home health visits.* (1) Medicare pays for all covered home health services. There are no deductible or coinsurance requirements. (2) Before July 1, 1981, Medicare pays for up to 100 visits furnished—

(i) After the beginning of one benefit period and before the beginning of the next and

(ii) Within one year after the later of the following:

(A) The individual's most recent discharge from a hospital, following a stay of at least 3 consecutive days.

(B) The individual's most recent discharge from a SNF, following receipt of service for which he or she was entitled to have payment made.

(3) After June 30, 1981, the limitations of paragraph (d)(2) of this section do not apply.

§ 409.62 Lifetime maximum on inpatient psychiatric care.

There is a lifetime maximum of 120 days on inpatient psychiatric hospital service available to any beneficiary. Therefore, once an individual receives benefits for 190 days of care in a psychiatric hospital, no further benefits of that type are available to that individual.

§ 409.63 Reduction of inpatient psychiatric benefit days available in the initial benefit period.

(a) *Reduction rule.* (1) If the individual was an inpatient in a psychiatric hospital on the first day of Medicare entitlement and for any of the 150 days immediately before that first day of entitlement, those days are subtracted from the 150 days (90 regular days plus 60 lifetime reserve days) which would otherwise be available in the initial benefit period for inpatient psychiatric services in a psychiatric or general hospital.

(2) Reduction is required only if the hospital was participating in Medicare as a psychiatric hospital on the individual's first day of entitlement.

(3) The reduction applies only to the beneficiary's first benefit period. For subsequent benefit periods, the 90 benefit days, plus any remaining lifetime reserve days, subject to the 190 day lifetime limit on psychiatric hospital care, are available.

(b) *Application to general hospital days.* (1) Days spent in a general hospital before entitlement are not subtracted under paragraph (a) of this section even if the stay was for diagnosis or treatment of mental illness.

(2) After entitlement, all psychiatric care days, whether in a general or a psychiatric hospital, are counted toward the number of days available in the initial benefit period.

(c) *Examples:* (1) The individual was an inpatient of a participating psychiatric hospital for 20 days before the first day of entitlement and remained there for another 6 months. Therefore, 130 days of benefits (150 minus 20) are payable. Payment could be made for: 60 full benefit days, 30 coinsurance days, and 40 lifetime reserve days.

(2) During the 150-day period preceding Medicare entitlement, an individual had been a patient of a general hospital for 60 days of inpatient psychiatric care and had spent 90 days in a psychiatric hospital, ending with the first day of entitlement. During the initial benefit period, the beneficiary spent 90 days in a general hospital and received psychiatric care there. The 60 days spent in the general hospital for psychiatric treatment before entitlement do not reduce the benefits available in the first benefit period. Only the 90 days spent in the psychiatric hospital before entitlement reduce such benefits, leaving a total of 60 available psychiatric days. However, after entitlement, the reduction applies not only to days spent in a psychiatric hospital, but also to days of psychiatric treatment in a general hospital. Thus, Medicare payment could be made only for 60 of the 90 days spent in the general hospital.

(3) An individual was admitted to a general hospital for a mental condition and, after 10 days, transferred to a participating psychiatric hospital. The individual remained in the psychiatric hospital for 78 days before becoming entitled to hospital insurance benefits and for 130 days after entitlement. The beneficiary was then transferred to a general hospital and received treatment of a medical condition for 20 days. The 10 days spent in the general hospital during the 150-day pre-entitlement period have no effect on the inpatient hospital benefit days available to the individual for psychiatric care in the first benefit period, even though the general hospital stay was for a mental condition. Only the 78 days spent in the psychiatric hospital during the pre-entitlement period are subtracted from the 150 benefit days. Accordingly, the individual has 72 days of psychiatric care (150 days less 78 days) available in the first benefit period. Benefits could be paid for the individual's hospitalization during the first benefit period in the following manner. For the 130-day psychiatric hospital stay, 72 days (60 full benefit days and 12 coinsurance days), and for the general hospital stay, 20 days (18 coinsurance and 2 lifetime reserve days).

§ 409.64 Services that are counted toward allowable amounts.

(a) Except as provided in paragraph (b) of this section for lifetime reserve days, all covered inpatient days and home health visits are counted toward the allowable amounts specified in §§ 409.61–409.63 if—

(1) They are paid for by Medicare; or

(2) They would be paid for by Medicare if the following requirements had been met:

(i) A proper and timely request for payment had been filed; and

(ii) The hospital, SNF, or home health agency had submitted all necessary evidence, including physician certification of need for services when such certification was required; or

(3) They could not be paid for because the total payment due was equal to, or less than, the applicable deductible and coinsurance amounts.

(b) *Exception.* Even though the requirements of paragraph (a)(2) of this section are met, lifetime reserve days are not counted toward the allowable amounts if the beneficiary elected or is deemed to have elected not to use them as set forth in § 409.65.

§ 409.65 Lifetime reserve days.

(a) *Election not to use lifetime reserve days.* (1) Whenever a beneficiary has exhausted the 90 regular benefit days, the hospital may bill Medicare for lifetime reserve days unless the beneficiary elects not to use them or, in accordance with paragraph (b) of this section, is deemed to have elected not to use them.

(2) It may be advantageous to elect not to use lifetime reserve days if the beneficiary has private insurance coverage that begins after the first 90 inpatient days in a benefit period, or if the daily charge is only slightly higher than the lifetime reserve days coinsurance amount. In such cases, the beneficiary may want to save the lifetime reserve days for future care that may be more expensive.

(3) If the beneficiary elects not to use lifetime reserve days for a particular hospital stay, they are still available for a later stay. However, once the beneficiary uses lifetime reserve days, they can never be renewed.

(4) If the beneficiary elects not to use lifetime reserve days, the hospital may require him or her to pay for any services furnished after the regular days are exhausted.

(b) *Deemed election.* A beneficiary will be deemed to have elected not to use lifetime reserve days if the average daily charges for such days is equal to or less than the applicable coinsurance amount specified in § 409.83. A beneficiary would get no benefit from using the days under those circumstances.

(c) *Who may file an election.* An election not to use reserve days may be filed by—

(1) The beneficiary; or

(2) If the beneficiary is physically or mentally unable to act, by the beneficiary's legal representative. In addition, if some other payment source is available, such as private insurance, any person authorized under § 405.1664 of this chapter to execute a request for payment for the beneficiary may file the election.

(d) *Filing the election.* (1) The beneficiary's election not to use lifetime reserve days must be filed in writing with the hospital.

(2) The election may be filed at the time of admission to the hospital or at any time thereafter up to 90 days after the beneficiary's discharge.

(3) A retroactive election (i.e., one made after lifetime reserve days have been used because the regular days were exhausted), is not acceptable unless it is approved by the hospital.

(e) *Period covered by election.* An election not to use lifetime reserve days may apply to an entire hospital stay or to a single period of consecutive days in a stay, but cannot apply to selected days in a stay. For example, a beneficiary may restrict the election to the period covered by private insurance but cannot use individual lifetime reserve days within that period. If an election not to use reserve days is effective after the first day on which reserve days are available, it must remain in effect until the end of the stay, unless it is revoked in accordance with § 409.66.

§ 409.66 Revocation of election not to use lifetime reserve days.

(a) Except as provided in paragraph (c) of this section, a beneficiary (or anyone authorized to execute a request for payment, if the beneficiary is incapacitated) may revoke an election not to use lifetime reserve days during hospitalization or within 90 days after discharge.

(b) The revocation must be submitted to the hospital in writing and identify the stay or stays to which it applies.

(c) *Exceptions.* A revocation of an election not to use lifetime reserve days may not be filed—

(1) After the beneficiary dies; or

(2) After the hospital has filed a claim under the supplementary medical insurance program (Medicare Part B), for medical and other health services furnished to the beneficiary on the days in question.

§ 409.68 Guarantee of payment for inpatient hospital services furnished before notification of exhaustion of benefits.

(a) *Conditions for payment.* Payment may be for inpatient hospital services furnished a beneficiary after he or she has exhausted the coverage days if the following conditions are met:

(1) The services were furnished before HCFA or the intermediary notified the hospital that the beneficiary had exhausted the available days of coverage and was not entitled to have payment made for those services.

(2) At the time the hospital furnished the services, it was unaware that the beneficiary had exhausted the available days of coverage and could reasonably have assumed that he or she was entitled to have payment made for these services.

(3) Payment would be precluded solely because the beneficiary has no benefit days available for the particular hospital stay.

(4) The hospital claims reimbursement for the services and refunds any payments made for those services by the beneficiary or by another person on his or her behalf.

(b) *Limitations on payment.* (1) If all of the conditions in paragraph (a) of this section are met, Medicare payment may be made for plus the day of admission, and up to 6 weekdays thereafter, plus any intervening Saturdays, Sundays, and Federal holidays.

(2) Payment may not be made under this section for any day after the hospital is notified that the beneficiary has exhausted the available benefit days.

(c) *Recovery from the beneficiary.* Any payment made to a hospital under this section is considered an overpayment to the beneficiary and may be recovered from him or her under the provisions set forth elsewhere in this chapter.

§ 409.69 Amounts payable.

The amounts payable for Medicare Part A services are subject to the deductible and coinsurance requirements set forth in this subpart, and are generally based on "reasonable cost" determined in accordance with Part 405, Subpart D of this chapter. (See §§ 405.153(c)(2) and 405.158(a) for payment on a charge basis for certain services furnished by hospitals outside the United States or by hospitals not participating in Medicare.)

Deductibles and Coinsurance

§ 409.80 Inpatient deductible and coinsurance: General provisions.

(a) *What they are.* (1) The inpatient deductible and coinsurance amounts are portions of the cost of covered hospital or SNF services that Medicare does not pay.

(2) The hospital or SNF may charge these amounts to the beneficiary or someone on his or her behalf.

(b) *Changes in the inpatient deductible and coinsurance amounts.* (1) The law requires the Secretary to adjust the inpatient hospital deductible each year to reflect changes in the average cost of hospital care. In adjusting the deductible, the Secretary must use a formula specified in section 1813(b)(2) of the Act. Under that formula, the inpatient hospital deductible is increased each year by about the same percentage as the increase in the average Medicare daily hospital costs. The result of the deductible increase is that the beneficiary continues to pay about the same proportion of the hospital bill.

(2) Since the coinsurance amounts are, by statute, specific fractions of the deductible, they change when the deductible changes.

§ 409.82 Inpatient hospital deductible.

(a) *General provisions.* (1) The inpatient hospital deductible is a fixed amount chargeable to the beneficiary when he or she receives covered services in a hospital for the first time in a benefit period.

(2) Although the beneficiary may be hospitalized several times during a benefit period, the deductible is charged only once during that period. If the beneficiary begins more than one benefit period in the same year, a deductible is charged for each of those periods.

(3) For services furnished before January 1, 1982, the applicable deductible is the one in effect when the benefit period began.

(4) For services furnished after December 31, 1981, the applicable deductible is the one in effect during the calendar year in which the services were furnished.

(b) *Specific deductible amounts.* (1) The following chart specifies the deductible amounts for services furnished before January 1, 1982.

Benefit period began—	Amount of deductible
Before 1969	$40
in:	
1969	44
1970	52
1971	60
1972	68
1973	72
1974	84
1975	92
1976	104
1977	124
1978	144

Benefit period began—	Amount of deductible
1979	160
1980	180
1981	204

(2) The following chart specifies the deductible amounts for services furnished after December 31, 1981:

Services furnished in	Amount of deductible
1982	$260
1983	304

(c) *Exemption.* If the total hospital charge is less than the amount shown under paragraph (b)(1) or (b)(2) of this section, the deductible is the amount of the charge.

§ 409.83 Inpatient hospital coinsurance.

(a) *General provisions.* (1) Inpatient hospital coinsurance is the amount charegable to a beneficiary for each day after the first 60 days of inpatient hospital care in a benefit period.

(2) For each day from the 61st to the 90th day, the coinsurance amount is ¼ of the applicable deductible.

(3) For each day from the 91st to the 150th day (lifetime reserve days), the coinsurance amount is ½ of the applicable deductible.

(4) For coinsurance days before January 1, 1982, the coinsurance amount is based on the deductible applicable for the calendar year in which the benefit period began. The coinsurance amounts do not change during a beneficiary's benefit period even though the coinsurance days may fall in a subsequent year for which a higher deductible amount has been determined.

(5) For coinsurance days after December 31, 1981, the coinsurance amount is based on the deductible applicable for the calendar year in which the services were furnished. For example, if an individual starts a benefit period by being admitted to a hospital in 1981 and remains in the hospital long enough to use coinsurance days in 1982, the coinsurance amount charged for those days is based on the 1982 inpatient hospital deductible.

(b) *Specific coinsurance amounts.* (1) The following chart specifies the daily hospital coinsurance amounts for services furnished before January 1, 1982:

Benefit period began—	61st to 90th day—	91st to 150th day—
Before 1969	$10	$20
In:		
1968	11	22
1970	13	26
1971	15	30
1972	17	34
1973	18	36
1974	21	42
1975	23	46
1976	26	52
1977	31	62
1978	36	72
1979	40	80
1980	45	90
1981	51	102

(2) The following chart specifies the daily hospital coinsurance amounts for services furnished after December 31, 1981:

Services furnished in	61st to 90th day	91st to 150th day
1982	$65	$130
1983	76	152

(c) Exemptions. (1) If the actual charge to the patient for the 61st through the 90th day of inpatient hospital services is less than the applicable coinsurance amount shown in paragraph (b)(1) or (b)(2) of this section, the coinsurance amount is the actual charge per day. (2) If the actual charge to the patient for the 91st through the 150th day (lifetime reserve days) is less than the applicable coinsurance amount shown in paragraph (b)(1) or (b)(2) of this section for those days, the beneficiary is deemed to have elected not to use the days because he or she would not benefit from using them.

§ 409.85 Skilled nursing facility (SNF) care coinsurance.

(a) *General provisions.* (1) SNF care coinsurance is the amount chargeable to a beneficiary after the first 20 days of SNF care in a benefit period.

(2) For each day from the 21st through the 100th day, the coinsurance is ⅛ of the applicable inpatient hospital deductible.

(3) For coinsurance days before January 1, 1982, the coinsurance amount is based on the deductible applicable for the year in which the benefit period began. The coinsurance amounts do not change during a beneficiary's benefit period even though the coinsurance days may fall in a subsequent year for which a higher deductible amount has been determined.

(4) For coinsurance days after December 31, 1981, the coinsurance amount is based on the deductible applicable for the calendar year in which the services were furnished.

(b) Specific amounts of daily SNF coinsurance. (1) The following chart specifies the daily coinsurance amounts for posthospital SNF care furnished before January 1, 1982:

Benefit period began—	Daily amount
Before 1969	$5.00
In:	
1969	5.50
1970	6.50
1971	7.50
1972	8.50
1973	9.00
1974	10.50
1975	11.50
1976	13.00
1977	15.50
1978	18.00
1979	20.00
1980	22.50
1981	25.50

(2) The following chart specifies the daily SNF coinsurance amounts for services furnished after December 31, 1981:

Services furnished in	Daily amount
1982	$32.50
1983	38.00

(c) *Exemption.* If the actual charge to the patient is less than the applicable coinsurance amount shown under paragraph (b)(1) or (b)(2) of this section, the coinsurance is the actual charge per day.

§ 409.87 Blood deductible.

(a) *General provisions.* (1) As used in this section, packed red cells means the red blood cells that remain after plasma is separated from whole blood.

(2) A unit of packed red cells is treated as the equivalent of a unit of whole blood.

(3) Medicare does not pay for the first 3 units of whole blood or units of packed red cells that a beneficiary receives as an inpatient of a hospital or SNF during a benefit period. For example, if an individual receives 2 units of blood in a hospital and 3 units in a SNF during a single benefit period, the 2 units furnished in the hospital and the first unit furnished in the SNF would be the responsibility of the individual. Medicare would pay for the other 2 units furnished in the SNF.

(4) The deductible does not apply to other blood components such as platelets, fibrinogen, plasma, gamma globulin, and serum albumin, or to the cost of processing, storing, and administering blood.

(5) The blood deductible is in addition to the inpatient hospital deductible and daily coinsurance.

(6) There is also a separate Part B (supplementary medical insurance) blood deductible. Blood funished under Part B of Medicare cannot be applied to satisfy the Part A (hospital insurance) blood deductible and blood furnished under Part A of Medicare cannot be applied to satisfy the Part B blood deductible.

(b) *Beneficiary's responsibility for the first 3 units of whole blood or packed red cells.* (1) *Basic rule.* Except as specified in paragraph (b)(2) of this section, the beneficiary is responsible for the first 3 units of whole blood or packed red cells. He or she has the option of paying the hospital's charges for the blood or packed red cells or arranging for it to be replaced.

(2) *Exception.* The beneficiary is not responsible for the first 3 units of whole blood or packed red cells if the provider obtained that blood or red cells at no charge other than a processing or service charge. In that case, the blood or red cells is deemed to have been replaced.

(c) *Provider's right to charge for the first 3 units of whole blood or packed red cells.* (1) *Basic rule.* Except as specified in paragraph (c)(2) of this section, a provider may charge a beneficiary its customary charge for any of the first 3 units of whole blood or packed red cells.

(2) *Exception.* A provider may not charge the beneficiary for the first 3 units of whole blood or packed red cells in any of the following circumstances:

(i) The blood or packed red cells has been replaced.

(ii) The provider (or its blood supplier) receives, from an individual or a blood bank, a replacement offer that meets the criteria specified in paragraph (d) of this section. The provider is precluded from charging even if it or its blood supplier rejects the replacement offer.

(iii) The provider obtained the blood or packed red cells at no charge other than a processing or service charge and it is therefore deemed to have been replaced.

(d) *Criteria for replacement of blood.* A blood replacement offer made by a beneficiary, or an individual or a blood bank on behalf of a beneficiary, discharges the beneficiary's obligation to pay for deductible blood or packed red cells if the replacement blood meets the applicable criteria specified in Food and Drug Administration regulations under 21 CFR Part 640, i.e.—

(1) The replacement blood would not endanger the health of a recipient; and

(2) The prospective donor's health would not be endangered by making a blood donation.

§ 409.89 Exemption of kidney donors from deductible and coinsurance requirements.

The deductible and coinsurance requirements set forth in this subpart do not apply to any services furnished to an individual in connection with the donation of a kidney for transplant surgery.

PART 430—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

F. Part 430 is amended as set forth below:

1. The authority statement is revised to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1320).

§ 430.1 [Removed. See §§ 400.200 and 400.203 of this chapter.]

2. The text of § 430.1 is revised and transferred to new §§ 400.200 and 400.203 and the table of contents is amended to reflect this change.

PART 440—SERVICES: GENERAL PROVISIONS

G. Part 440 is amended as set forth below:

1. The authority statement is revised to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 440.40(a)(1)(i) is revised by revising the cross references, to read as follows:

§ 440.40 Skilled nursing facility services for individuals age 21 or older (other than services in an institution for tuberculosis or mental diseases). EPSDT, and family planning services and supplies.

(a) *Skilled nursing facility services.* (1) "Skilled nursing facility for individuals age 21 or older, other than services in an institution for tuberculosis or mental diseases, " means services that are—

(i) Needed on a daily basis and required to be provided on an inpatient basis under §§ 409.31–409.35 of this chapter.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Programs; No. 13.773, Medicare—Hospital Insurance; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: November 24, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 27 ,1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-7227 Filed 3-24-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 30310-36]

Tanner Crab Off Alaska

Correction

In FR Doc. 83-6677 beginning on page 10846 in the issue of Tuesday, March 15, 1983, make the following correction on page 10847: In the second column, the fifth line, the first word should read "Fishing".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 48, No. 59
Friday, March 25, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1033 and 1036

[Dockets Nos. AO-166-A51, AO-179-A46]

Milk in the Ohio Valley and Eastern Ohio-Western Pennsylvania Marketing Areas; Reopening of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening of public hearing on proposed rulemaking.

SUMMARY: A public hearing was held at Middleburg Heights, Ohio, on March 3 and 4, 1983, to consider proposals to amend the Ohio Valley and Eastern Ohio-Western Pennsylvania milk orders. The transcript of the March 4 session of the hearing and the exhibits presented on both days have been received from the reporting contractor, but the contractor has not been able to locate the recording tapes of the testimony presented at the March 3 session of the hearing. Thus, the hearing is being reopened to retake the testimony presented on March 3.

DATE: The reopened hearing will convene March 29, 1983.

ADDRESS: The reopened hearing will be held at the same place as the previous hearing session: Holiday Inn, 7230 Engle Road (Jct. I-71 & Bagley Road), Middleburg Heights, Ohio.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing: Issued February 16, 1983; published February 22, 1983 (48 FR 7462).

A hearing was held March 3 and 4, 1983, at Middleburg Heights, Ohio, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Ohio Valley and Eastern Ohio-Western Pennsylvania marketing areas. The reporting contractor has delivered only the transcript of the testimony presented on March 4 and the exhibits that were presented on both days. The contractor has not been able to locate the recording tapes of the testimony presented at the March 3 session of the hearing. Thus, the testimony must be retaken for that hearing session.

Notice is hereby given, pursuant to the rules of practice applicable to these proceedings (7 CFR Part 900), that the said hearing will be reopened at the Holiday Inn, 7230 Engle Road (Jct. I-71 and Bagley Road), Middleburg Heights, Ohio, beginning at 9:00 a.m., local time, on March 29, 1983, for the purpose of retaking of evidence presented on March 3 with respect to the economic and marketing conditions which relate to the proposals set forth in the notice of hearing issued February 16, 1983 (48 FR 7462).

List of Subjects in 7 CFR Parts 1033 and 1036

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on March 23, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-7864 Filed 3-24-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 211

[Docket No. 79P-0199]

Current Good Manufacturing Practice in Manufacture, Processing, Packing or Holding; Proposed Exemption From Recording Lot or Control Numbers on Distribution Records for Compressed Medical Gas Products

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the current good manufacturing practice (CGMP) regulations for human and veterinary durg products to exempt compressed medical gas products from the requirement that lot or control numbers of the drug product be recorded on distribution records. This action is based upon information submitted in a citizen petition. The petition stated that compliance with the subject CGMP requirement is unnecessary and potentially counterproductive for compressed medical gas (CMG) products because their packaging and distribution differ substantially from other classes of drug products.

DATE: Comments by May 24, 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:
Clifford G. Broker (HFN-323), 301-443-5307,
or
Robert J. Meyer (HFN-7), 301-443-5220, National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 29, 1978 (43 FR 54014), FDA published final CGMP regulations for human and veterinary drug products. Most of the requirements under those final regulations became effective on March 28, 1979.

On June 8, 1979, the Compressed Gas Association, 500 Fifth Ave., New York, NY 10036, submitted to FDA a citizen petition under 21 CFR 10.30 to amend the CGMP regulations by exempting CMG products from compliance with § 211.196 (21 CFR 211.196). That section requires that the distribution records for a drug product contain the name and strength of the product and a description of the dosage form, name and address of the consignee, date and quantity shipped, and lot or control number of the drug product. A copy of the petition is on file under Docket No. 79P-0199 CP in the Dockets Management Branch (address above), and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

The requirements of § 211.196 are intended to assure that a manufacturer has adequate information to determine the distribution of each lot of a drug

product in the event of a drug product recall. The petitioner requested that CMG products be exempted from § 211.196 to the extent that it requires the recording of the lot or control number of the products on distribution records. The request was based upon the unique packaging and distribution system for CMG products which, according to the petitioner, allows effective recalls of these products, if necessary, without the need for distribution records containing lot or control numbers.

The petitioner stated that CMG products are supplied in pressurized steel cylinders of various size and delivered to each consignee by truck. These cylinders are of such configuration (i.e., slender and top-heavy) that they are arranged for delivery by securely binding them together by size, rather than by consignee, gas type or lot number, to prevent cylinder damage caused by load shifting. According to the petitioner, this loading pattern is not conducive to delivering cylinders with preassigned lot numbers, because CMG truck drivers cannot be expected reliably to sort out and deliver the proper lot number to each consignee due to the extensive unloading and reloading that this procedure would require. The petitioner stated that without reasonable alternatives to the customary delivery procedure, CMG truck drivers would need to transcribe the appropriate lot or control numbers on the distribution records at the time of delivery. The petitioner pointed out that requiring CMG truck drivers to perform such clerical duties at the time of delivery would create a significant margin for error and would be counterproductive in the event of a recall.

The petitioner stressed that recalls of CMG products have been conducted effectively without distribution records containing lot or control numbers. According to the petitioner, it is standard industry practice for suppliers of CMG products to maintain distribution records both alphabetically and chronologically. In the event of a recall, the chronological record of distribution is reviewed (starting on the fill date of the lot of CMG cylinders in question) in order to identify all consignee to whom the subject lot of CMG products could have been delivered. The petitioner claimed that this system has resulted in fast and effective recalls of CMG products. Furthermore, the petitioner claimed that this system has proven to be the most reliable and practical, and that it presents the least risk of a recalled cylinder being retained by a consignee. Therefore, according to the petitioner, it is unnecessary to require that distribution records for CMG products contain lot or control numbers, because this recording requirement does not improve the timeliness or effectiveness of the present recall system for CMG products.

FDA has carefully considered the petitioner's contentions and tentatively concludes that the arguments are sound and that the petition should be granted. The intent of requiring the lot or control number on the distribution record of a drug product is to ensure distribution accountability, and thus to enable firms to conduct timely and effective recalls if necessary. The agency is persuaded that, in the case of CMG products, the objective can be met without distribution records that contain lot or control numbers.

The agency has not identified any practical alternatives to the need for CMG truck drivers to record lot or control numbers of CMG products on distribution records at the time of delivery, because of the loading patterns necessary to prevent damage to CMG cylinders. The agency agrees with the petitioner's contention that requiring CMG truck drivers to record lot or control numbers at the time of delivery might lead to error. Therefore, the agency believes that reliance on lot or control numbers as entered on distribution records by CMG truck drivers to determine the distribution of a recalled CMG produce may be counterproductive because of the risk of an incomplete recall.

During the last several years, the agency has monitored two CMG product recalls, both of which are conducted promptly and effectively without the use of distribution records that contained lot or control numbers. The agency notes that several unique factors, such as a limited number of consignees over a small geographic area for which CMG supplier and a strong economic incentive for each CMG supplier to monitor the consignee's receipt of the expensive and reusable CMG cylinders, have contributed to the success of CMG product recalls. As a result of this review of the CMG industry's distribution mechanisms and recall system, the agency tentatively concludes that distribution records containing lot or control numbers are unnecessary for the prompt and effective recall of CMG products.

The agency emphasizes that the proposed exemption for lot or control numbers on distribution records for CMG products does not relieve suppliers of CMG products from keeping adequate distribution records to enable a complete recall of any lot of a CMG product. In addition, suppliers of CMG products are required by the CGMP regulations under § 211.150 (21 CFR 211.150) to establish and follow written distribution procedures to facilitate a CMG product recall if necessary. The agency believes that these requirements are adequate to ensure the continued success of CMG product recalls without the availability of lot or control numbers on distribution records. Accordingly, FDA is proposing to amend § 211.196 by exempting CMG products from the requirement that distribution records contain the lot or control number of the drug product.

The agency has determined that, because of the nature of the proposed change, it is in the public interest to allow suppliers of CMG products to follow, on an interim basis, the provisions of this proposal. Thus, suppliers of CMG products, on the publication date of this proposal, will no longer be required to include lot or control numbers on distribution records of CMG products. Pending the receipt of comments on this proposal, and the agency's final decision on this matter, this interim enforcement policy will remain in effect. If the agency determines not to adopt this proposal as a final rule, a notice announcing that decision will be published in the **Federal Register.**

The agency has determined pursuant to 21 CFR 25.24(d)(12) (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.

The agency has considered the economic consequences of this proposed rulemaking and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-

354). Specifically, the proposal amends the CGMP regulations for human and veterinary drug products to exempt compressed medical gas products from the requirement that lot or control numbers of the drug product be recorded on distribution records. Thus, the exemption would relieve a regulatory burden on the industry and eliminate the cost associated with the requirement for the manufacturers of these drugs. Therefore, the agency concludes that the proposed rule is not a "major" rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 211

Drugs, Manufacturing, Labeling, Laboratories, Packaging and containers, Warehouses.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 512, 701, 52 Stat. 1049–1051 as amended, 1055–1056 as amended 82 Stat. 343–351 (21 U.S.C. 351, 352, 360b, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 211 be amended by revising § 211.196 to read as follows:

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

§ 211.196 Distribution records.

Distribution records shall contain the name and strength of the product and description of the dosage form, name and address of the consignee, date and quantity shipped, and lot or control number of the drug product. For compressed medical gas products, distribution records are not required to contain lot or control numbers.

Interested persons may, on or before May 24, 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: February 23, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-7703 Filed 3-24-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 880, 881, 883, 884, and 886

[Docket No. R-83-1031]

Section 8 Housing Assistance Payments Programs for New Construction and Substantial Rehabilitation

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to amend its regulations governing the Section 8 Housing Assistance Payments Programs for New Construction and Substantial Rehabilitation. These amendments would require that each Housing Assistance Payments Contract provide that the owner will notify tenants at least 90 days before the expiration of the Contract of any rent increase which may occur as a result of its expiration. These amendments would bring the Department's regulations into conformity with Section 8(c)(8) of the U.S. Housing Act of 1937, as added by Section 326(a) of the Housing and Community Development Amendments of 1981. The proposed rule would also apply to existing housing assisted under the Section 8 Assistance Program for the Disposition of HUD-Owned Projects (Part 886, Subpart C) and the Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages (Part 886, Subpart A).

DATE: Comments must be received on or before May 24, 1983.

ADDRESS: Interested persons are invited to submit written comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Room 6178, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5654; or Cherie D. Charles, Director, State Agency Finance Division, Office of State Agency and Bond Financed Programs, Room 6124, Department of HUD, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6887. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the Section 8 Program is to assist lower income families in obtaining decent, safe and sanitary rental housing through the use of housing assistance payments. The housing assistance payments reduce the tenant contribution to rent for eligible lower income families leasing assisted units. Monthly housing assistance payments are made directly to the project owner pursuant to a Housing Assistance Payments Contract (HAP Contract).

Section 326(a) of the Housing and Community Development Amendments of 1981 (the "1981 Act") added paragraph (8) to Section 8(c) of the U.S. Housing Act of 1937. Section 8(c)(8) requires that each contract shall provide that the owner will notify tenants, at least 90 days before the expiration of the contract, of any rent increase which may occur as a result of the contract's expiration. The Department is proposing to amend its regulations to incorporate this statutory change.

Except as noted below, these changes would apply only to the New Construction and Substantial Rehabilitation Programs, in accordance with the Conference Report on the 1981 Act (H.R. Report No. 97-208 at 693). These Programs are: New Construction (Part 880); Substantial Rehabilitation (Part 881); State Housing Agencies (Part 883) (insofar as the State Agency program involves new construction and substantial rehabilitation); the New Construction Set-Aside for Section 515 Rural Rental Housing Projects (Part 884); and the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (Part 886, Subpart C) (insofar as it involves substantial rehabilitation). In addition to this proposed rule, the Department is also preparing a regulation amending Part 885 which, among other matters, would incorporate this amendment and other statutory changes effected by the 1981 Act to the Loans for Housing for the Elderly or Handicapped Program.

The Department also proposes to extend the requirements of section 326(a) to existing housing under the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (24 CFR Part 886, Subpart C) and the Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages (24 CFR Part 886, Subpart A). This coverage is proposed because, like the new construction and substantial rehabilitation programs, the subsidy is "project-based," with assisted

tenants losing their subsidy if the owner terminates the contract. Thus, the notice required by section 326(a) would be as important to recipients under these Programs as under the New and Substantial Rehabilitation Programs. The rule would not extend to the Section 8 "Finders-Keepers" Existing Program under Part 882, since an owner's decision to discontinue participation in that Program does not necessarily result in loss of the subsidy to the tenant.

Consistent with section 371(b) of the 1981 Act, all Section 8 owners of new or subtantially rehabilitated projects who executed HAP Contracts pursuant to Agreements to Enter into such Contracts executed on or after October 1, 1981, would be subject to this statutory requirement, notwithstanding the fact that their Contract may not contain such an express provision, since Section 326(a) constituted law in effect at the time the Agreements were executed. This rule would not affect the obligations of a Section 8 project owner who entered into a HAP Contract pursuant to an Agreement executed before October 1, 1981, unless the Contract is renewed or amended on or after the effective date of this rule. The proposed rule would apply only to those Section 8 project owners of existing housing who execute Contracts on or after the effective date of the rule, since application of the rule to such owners is not mandated by section 326(a) of the 1981 Act.

The proposed rule would require project owners to notify each assisted tenant, at least 90 days before the end of the HAP Contract term, of any increase in the amount the tenant would be required to pay as rent which may occur as a result of expiration of Contract. If the Contract is to be renewed with a reduction of the number of units covered, the notice would be given to each tenant who will no longer receive assistance. The manner of providing notice is specified in the rule.

With the loss of Section 8 assistance, tenants choosing to remain may be required to make higher payments, even without an actual increase in the rent charged for a unit by an ower. In order to assure that the tenants receive adequate notice of this effect, the proposed rule would require that the notice advise them that, after the expiration date of the assistance, formerly assisted tenants choosing to remain will be required to bear the entire cost of the rent and that the owner will be free (unless the project is otherwise subject to rent regulation by HUD) to alter the rents without HUD approval, but subject to any applicable requirements or restrictions under the lease or State or local law. The notice would also be required to set forth the actual (if known) or the estimated rent to be charged following the expiration of the HAP Contract, the difference between such rent and total family contribution to rent under the Contract, and the date on which the Contract will expire.

A Finding of No Signficiant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, S.W., Washington, D.C. 20410.

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

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule imposes a purely ministerial duty and does not affect existing regulations governing the development and regular operation of newly constructed or substantially rehabilitated units assisted under Section 8.

This rule was listed as item H-135-82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.156 (Lower Income Housing Assistance Program (C)).

List of Subjects

24 CFR Parts 880 and 881

Grant programs—Housing and community development, Housing assistance payments, Lower income housing.

24 CFR Part 883

Grant programs—Housing and community development, Housing assistance payments, New construction and substantial rehabilitation.

24 CFR Part 884

Grant programs—Housing and community development, Housing assistance payments, Rural areas, Lower income housing.

24 CFR Part 886

Grant programs—Housing and Community Development, Housing assistance payments, Lower income housing.

Accordingly, the Department proposes to amend 24 CFR Parts 880, 881, 883, 884 and 886 as follows:

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

1. In Subpart E of Part 880, a new § 880.508 would be added, to read as follows:

§ 880.508 Notice upon contract expiration.

(a) The Contract, if entered into pursuant to an Agreement executed on or after October 1, 1981, or if entered into pursuant to an Agreement executed before October 1, 1981, but renewed or amended on or after May 24, 1983, will provide that the owner will notify each assisted tenant, at least 90 days before the end of the Contract term, of any increase in the amount the tenant will be required to pay as rent which may occur as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each tenant who will no longer be assisted under the Contract.

(b) The notice provided for in paragraph (a) of this section shall be accomplished by serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the notice provided for in this paragraph is properly served.

(c) The notice shall advise each affected tenant that, after the expiration date of the Contract, the tenant will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise

regulated by HUD) to alter the rent without HUD approval, but subject to any applicable requirements or restrictions under the lease or under State or local law. The notice shall also state:

(1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract;

(2) The difference between such rent and the total family contribution to rent under the Contract; and

(3) The date the Contract will expire.

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

2. In Supbart E of Part 881, a new § 881.508 would be added, to read as follows:

§ 881.508 Notice upon contract expiration.

(a) The Contract, if entered into pursuant to an Agreement executed on or after October 1, 1981, or if entered into pursuant to an Agreement executed before October 1, 1981, but renewed or amended on or after (insert effective date), will provide that the owner will notify each assisted tenant, at least 90 days before the end of the Contract term, of any increase in the amount the tenant will be required to pay as rent which may occur as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each tenant who will no longer be assisted under the Contract.

(b) The notice provided for in paragraph (a) of this section shall be accomplished by serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the notice provided for in this paragraph is properly served.

(c) The notice shall advise each affected tenant that, after the expiration date of the Contract, the tenant will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise regulated by HUD) to alter the rent without HUD approval, but subject to any applicable requirements or restrictions under the lease or under State or local law. The notice shall also state:

(1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract;

(2) The difference between such rent and the total family contribution to rent under the Contract; and

(3) The date the Contract will expire.

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

3. In Subpart F of Part 883, a new § 883.608 would be added, to read as follows:

§ 883.608 Notice upon contract expiration.

(a) The Contract, if entered into pursuant to an Agreement executed on or after October 1, 1981, or if entered into pursuant to an Agreement executed before October 1, 1981, but renewed or amended on or after (insert effective date), will provide that the owner will notify each assisted tenant, at least 90 days before the end of the Contract term, of any increase in the amount the tenant will be required to pay as rent which may occur as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each tenant who will no longer be assisted under the Contract.

(b) The notice provided for in paragraph (a) of this section shall be accomplished by serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the notice provided for in this paragraph is properly served.

(c) The notice shall advise each affected tenant that, after the expiration date of the Contract, the tenant will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise regulated by HUD) to alter the rent without the approval of HUD, but subject to any applicable requirements or restrictions under the lease or under State or local law. The notice shall also state:

(1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract;

(2) The difference between such rent and the total family contribution to rent under the Contract; and

(3) The date the Contract will expire.

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

4. In Subpart A of Part 884, a new § 884.108a would be added, to read as follows:

§ 884.108a Notice upon contract expiration.

(a) The Contract, if entered into pursuant to an Agreement executed on or after October 1, 1981, or if entered into pursuant to an Agreement executed before October 1, 1981, but renewed or amended on or after May 24, 1983, will provide that the owner will notify each assisted tenant, at least 90 days before the end of the Contract term, of any increase in the amount the tenant will be required to pay as rent which may occur as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each tenant who will no longer be assisted under the Contract.

(b) The notice provided for in paragraph (a) of this section shall be accomplished by serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the notice provided for in this paragraph is properly served.

(c) The notice shall advise each affected tenant that, after the expiration date of the Contract, the tenant will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise regulated by HUD or by the FmHA) to alter the rent without HUD approval, but subject to any applicable requirements or restrictions under the lease or State or local law. The notice shall also state:

(1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract;

(2) The difference between such rent and the total family contribution to rent under the Contract; and

(3) The date the Contract will expire.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

5. In Subpart A of Part 886, a new § 886.111a would be added, to read as follows:

§ 886.111a Notice upon contract expiration.

(a) The Contract will provide that the owner will notify each assisted tenant, at least 90 days before the end of the Contract term, of any increase in the amount the tenant will be required to pay as rent which may occur as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each tenant who will no longer be assisted under the Contract.

(b) The notice provided for in paragraph (a) of this section shall be accomplished by serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the notice provided for in this paragraph is properly served.

(c) The notice shall advise each affected tenant that, after the expiration date of the Contract, the tenant will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise regulated by HUD) to alter the rent without HUD approval, but subject to any applicable requirements or restrictions under the lease or State or local law. The notice shall also state:

(1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract;

(2) The difference between such rent and the total family contribution to rent under the Contract; and

(3) The date the Contract will expire.

(d) This section applies to all Contracts executed, renewed or amended after May 24, 1983.

6. In Subpart C of Part 886, a new § 886.311a would be added, to read as follows:

§ 886.311a Notice upon contract expiration.

(a) The Contract will provide that the owner will notify each assisted tenant, at least 90 days before the end of the Contract term, of any increase in the amount the tenant will be required to pay as rent which may occur as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each tenant who will no longer be assisted under the Contract.

(b) The notice provided for in paragraph (a) of this section shall be accomplished by serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the notice provided for in this paragraph is properly served.

(c) The notice shall advise each affected tenant that, after the expiration date of the Contract, the tenant will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise regulated by HUD) to alter the rent without HUD approval, but subject to any applicable requirements or restrictions under the lease or State or local law. The notice shall also state:

(1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract;

(2) The difference between such rent and the total family contribution to rent under the Contract; and

(3) The date the Contract will expire.

(d) This section shall apply to (1) Contracts involving Substantial Rehabilitation entered into pursuant to Agreements executed on or after October 1, 1981, or Contracts involving Substantial Rehabilitation entered into pursuant to Agreements executed before October 1, 1981, but renewed or amended on or after May 24, 1983, and (2) all other Contracts executed, renewed or amended after May 24, 1983.

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

Dated: March 3, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-7706 Filed 3-24-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-218-78]

Product Liability Losses and Accumulations for Product Liability Losses; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to product liability losses and accumulations for the payment of reasonably anticipated product liability losses. Changes to the applicable tax law were made by the Revenue Act of 1978 and the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with the applicable parts of those acts.

DATE: Written comments and requests for a public hearing must be delivered or mailed by May 24, 1983. The amendments made by section 371 of the Revenue Act of 1978 are proposed to be effective for taxable years beginning after September 30, 1979. The amendments made by section 207(a)(1) of the Economic Recovery Tax Act of 1981 are proposed to be effective for taxable years ending after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-218-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George T. Magnatta of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3288).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 172 and 537 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 371 of the Revenue Act of 1978 (92 Stat. 2859) and section 207(a)(1) of the Economic Recovery Tax Act of 1981 (95 Stat. 225). The proposed amendments are to be issued under the authority contained in sections 172 and 537 of the Code (92 Stat. 2859; 26 U.S.C. 172 and 537) and by section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805).

In General

Generally, a net operating loss may be carried back to each of the 3 taxable years preceding the taxable year of such loss and may be carried over to each of the 15 succeeding taxable years (5 succeeding taxable years for a loss sustained in a taxable year ending before January 1, 1976) following the taxable year of such loss.

New section 172(b)(1)(H) provides a 10-year carryback for product liability losses, unless the taxpayer elects to waive the application of section 172(b)(1)(H). For purposes of section 172, a product liability loss is the lesser of

the following: (1) The net operating loss for the year (excluding the portion of the loss attributable to foreign expropriation losses), or (2) the sum of the amounts deductible, either as trade or business expenses or as losses, that are attributable to: (i) Product liability, and (ii) expenses (including settlement payments) in connection with the investigation or settlement of or opposition to claims against the taxpayer on account of alleged product liability. Product liability is defined as the liability of the taxpayer which arises on account of physical injury or emotional harm to individuals, as well as damage to, or loss of the use of, property on account of any defect in any product which is manufactured, leased, or sold by the taxpayer. Under the proposed regulations, liability which satisfies the statutory definition of product liability would be considered product liability under section 172 even if such liability were not product liability under the laws of particular State.

Any taxpayer entitled to the special carryback rules of section 172(b)(1)(H) may elect not to have the special rules apply. Such an election is a yearly election. If the taxpayer so elects, product liability losses shall not be carried back 10 years; rather, product liability losses shall be carried back or carried over in accordance with the general carryback and carryover rules of section 172(b)(1).

The new rules under section 172(b)(1)(H) would provide that accumulations permitted under section 537(b)(4) which are designed to provide amounts for the payment of reasonably anticipated product liability losses and are accumulations for the reasonably anticipated needs of a business are not considered product liability losses until a loss is considered to be sustained under the applicable tax rules. (*e.g.*, section 165). Likewise, payments for any type of insurance against product liability risks are not considered product liability losses.

Accumulations Under Section 537

Amounts accumulated for the payment of reasonably anticipated product liability losses shall be considered accumulations for the reasonable needs of a business. The new rules would provide that the reasonableness of the accumulation is to be determined in light of all facts and circumstances of the taxpayer making such accumulation. Some of the factors to be taken into account in determining such reasonableness include the taxpayer's past product liability experience, the extent of the taxpayer's coverage by commercial product liability insurance, the tax consequences of the taxpayer's ability to deduct product liability losses for income tax purposes, and the taxpayer's future potential liability due to defective products in light of the taxpayer's plans to expand the production of products currently being manufactured, provided such plans are specific, definite, and feasible. Only those accumulations made with respect to products that have been manufactured, leased, or sold shall be considered as accumulations for the reasonable needs of the business.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Non-Application of Executive Order 12291

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

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

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

List of Subjects

26 CFR 1.61–1 through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.531–1 through 1.565–6

Income taxes, Corporations, Tax avoidance, Holding companies.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.172–4 is amended by removing "(a)(1)(viii), and (a)(1)(ix)" in paragraph (a)(1)(ii) and adding in its place "(a)(1) (viii), (ix), and (x)", and by adding a new paragraph (a)(1)(x). The added provision reads as follows:

§ 1.172–4 Net operating loss carrybacks and net operating loss carryovers.

(a) *General provisions*—(1) *Years to which loss may be carried.* * * *

(x) *Product liability losses.* A product liability loss (as defined in section 172(i) and § 1.172–13(b)(1)) sustained in a taxable year beginning after September 30, 1979, by any taxpayer shall be carried back to the 10 preceding taxable years, unless the taxpayer elects (in accordance with the rules set forth in section 172(i)(3) and § 1.172–13(c)) not to have this provision apply. Any unused portion of the net operating loss remaining after this 10-year carryback period shall be carried forward under the general provisions of section 172(b)(1)(B) and its status as a product liability loss shall be disregarded.

* * * * *

Par. 2. A new § 1.172–13 is added after § 1.172–12, to read as follows:

§ 1.172–13 Product liability losses.

(a) *Entitlement to 10-year carryback*—(1) *In general.* Unless an election is made pursuant to paragraph (c) of this section, in the case of a taxpayer which has a product liability loss (as defined in section 172(i) and paragraph (b)(1) of this section) for a taxable year beginning after September 30, 1979 (hereinafter "loss year"), the product liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the loss year.

(2) *Years to which loss may be carried.* A product liability loss shall first be carried to the earliest of the taxable years to which such loss is allowable as a carryback and shall then be carried to the next earliest of such taxable years, etc.

(3) *Example.* The application of this paragraph may be illustrated as follows:

Example. Taxpayer A incurs a net operating loss for taxable year 1980 of $80,000, of which $60,000 is a product liability loss. A's taxable income for each of the 10 years immediately preceding taxable year 1980 was $5,000. The product liability loss of $60,000 it first carried back to the 10th through the 4th preceding taxable years ($5,000 per year), thus offsetting $35,000 of the loss. The remaining $25,000 of product liability loss is added to the remaining portion of the total net operating loss for taxable year 1980 which was not a product liability loss ($20,000), and the total is then carried back to the 3rd through 1st years preceding taxably year 1980, which offsets $15,000 of this loss. The remaining loss ($30,000) is carried forward pursuant to section 172(b)(1) and the regulations thereunder without regard to whether all or any portion thereof originated as a product liability loss.

(b) *Definitions*—(1) *Product liability loss.* The term "product liability loss" means, for any taxable year, the lesser of—

(i) The net operating loss for the current taxable year (not including the portion of such net operating loss attributable to foreign expropriation losses, as defined in § 1.172–11), or

(ii) The total of the amounts allowable as deductions under sections 162 and 165 directly attributable to—

(A) Product liability (as defined in paragraph (b)(2) of this section), and

(B) Expenses (including settlement payments) incurred in connection with the investigation or settlement of or opposition to claims against the taxpayer on account of alleged product liability.

Indirect corporate expense, or overhead, is not to be allocated to product liability claims so as to become a product liability loss.

(2) *Product liability.* (i) The term "product liability" means the liability of a taxpayer for damages resulting from physical injury or emotional harm to individuals, or damage to or loss of the use of property, on account of any defect in any product which is manufactured, leased, or sold by the taxpayer. The preceding sentence applies only to the extent that the injury, harm, or damage occurs after the taxpayer has completed or terminated operations with respect to the product, including, but not limited to the manufacture, installation, delivery, or testing of the product, and has relinquished possession of such product.

(ii) The term "product liability" does not include liabilities arising under warranty theories relating to repair or replacement of the property that are essentially contract liabilities. For example, the costs incurred by a taxpayer in repairing or replacing defective products under the terms of a warranty, express or implied, are not product liability losses. On the other hand, the taxpayer's liability for damage done to other property or for harm done to persons that is attributable to a defective product may be product liability losses regardless of whether the claim sounds in tort or contract. Further, liability incurred as a result of services performed by a taxpayer is not product liability. For purposes of the preceding sentence, where both a product and services are integral parts of a transaction, product liability does not arise until all operations with respect to the product are completed and the taxpayer has relinquished possession of it. On the other hand any liability that arises after completion of the initial delivery, installation, servicing, testing, etc., is considered "product liability" even if such liability arises during the subsequent servicing of the product pursuant to a service agreement or otherwise.

(iii) Liability for injury, harm, or damage due to a defective product as described in this subparagraph shall be "product liability" notwithstanding that the liability is not considered product liability under the law of the State in which such liability arose.

(iv) Amounts paid for insurance against product liability risks are not paid on account of product liability.

(3) *Examples.* Paragraph (b)(2) of this section is illustrated by the following examples:

Example (1). X, a manufacturer of heating equipment, sells a boiler to A, a homeowner. Subsequent to the sale and installation of the boiler, the boiler explodes due to a defect causing physical injury to A. A sues X for damages for the injuries sustained in the explosion and is awarded $250,000 which X pays. The payment was made on account of product liability.

Example (2). Assume the same facts as in example (1) and that A also sues under the contract with X to recover for the cost of the boiler and recovers $1,000, the boiler's replacement cost. The $1,000 payment is not a payment on account of product liability. Similarly, if X agrees to repair the destroyed boiler, any amount expended by X for such repair is not payment made on account of product liability.

Example (3). Y, a professional medical association, is sued by B, a patient, in an action based on the malpractice of one of its doctors. B recovers $25,000. As the suit was based on the services of B, the payment is not made on account of product liability.

Example (4). R, a retailer of communications equipment, sells a telecommunication device to C. R also contracts with C to service the equipment for 3 years. While R is installing the equipment, the unit catches on fire due to faulty wiring within the unit and destroys C's office. As R had not relinquished possession of the equipment when the fire started, any amount paid to C by R for the damage to C's property on account of the defective product is not payment on account of product liability.

Example (5). Assume the same facts as in example (4) except that the fire and resulting property damages occurred after R had installed the equipment and relinquished possession of it. Any amount paid for the property damages sustained on account of the defective product is payment on account of product liability.

Example (6). Assume the same facts as in example (4) except that the equipment catches on fire during the subsequent servicing of the unit. As C is in possession of the unit during the servicing, any amount paid for the property damage sustained on account of the defective product would be payment on account of product liability.

Example (7). X, a manufacturer of computers, sells a computer to A. X also has its employees periodically service the computer for A from time to time after it is placed in service. After the initial delivery, installation, servicing, and testing of the computer is completed, the computer catches on fire while X's employee is servicing the equipment. This fire causes property damage to A's office and physical injury to A. Any amount paid for the property or physical damage sustained on account of the defective product is payment on account of product liability.

(c) *Election*—(1) *In general.* The 10-year carryback provision of this section applies, except as provided in this paragraph, to any taxpayer who, for a taxable year beginning after September 30, 1979, incurs a product liability loss. Any taxpayer entitled to a 10-year carryback under paragraph (a) of this section in any loss year may elect (at the time and in the manner provided in paragraph (c)(2) of this section) to have the carryback period with respect to the product liability loss determined without regard to the carryback rules provided by paragraph (a) of this section. If the taxpayer so elects, the product liability loss shall not be carried back to the 10th through the 4th taxable years preceding the loss year. In such case, the product liability loss shall be carried back or carried over as provided by section 172(b) (except subparagraph (1)(H) thereof) and the regulations thereunder.

(2) *Time and manner of making election.* An election by any taxpayer entitled to the 10-year carryback for the product liability loss to have the carryback with respect to such loss determined without regard to the 10-year carryback provision of paragraph (a) of this section must be made by attaching to the taxpayer's tax return (filed within the time prescribed by law, including extensions of time) for the taxable year in which such product

liability loss is sustained a statement containing the information required by paragraph (c)(3) of this section. Such election, once made for any taxable year, shall be irrevocable after the due date (including extensions of time) of the taxpayer's tax return for that taxable year.

(3) *Information required.* The statement referred to in paragraph (c)(2) of this section shall contain the following information:

(i) The name, address, and taxpayer identifying number of the taxpayer; and

(ii) A statement that the taxpayer elects under section 172(i)(3) not to have section 172(b)(1)(H) apply.

Par. 3. Section 1.537–1 is amended by revising the first two sentences of paragraph (a) and by adding a new paragraph (f) after paragraph (e). These amended and added provisions read as follows:

§ 1.537–1 Reasonable needs of the business.

(a) *In general.* The term "reasonable needs of the business" includes (1) the reasonably anticipated needs of the business (including product liability loss reserves, as defined in paragraph (f) of this section), (2) the section 303 redemption needs of the business, as defined in paragraph (c) of this section, and (3) the excess business holdings redemption needs of the business as described in paragraph (d) of this section. See paragraph (e) of this section for additional rules relating to the section 303 redemption needs and the excess business holdings redemption needs of the business. * * *

* * * * *

(f) *Product liability loss reserves.* (1) The term "product liability loss reserve" means, with respect to taxable years beginning after September 30, 1979, reasonable amounts accumulated for the payment of reasonably anticipated product liability losses, as defined in section 172(i) and § 1.172–13(b)(1).

(2) For purposes of this paragraph, whether an accumulation for anticipated product liability losses is reasonable in amount and whether such anticipated product liability losses are likely to occur shall be determined in light of all facts and circumstances of the taxpayer making such accumulation. Some of the factors to be considered in determining the reasonableness of the accumulation include the taxpayer's previous product liability experience, the extent of the taxpayer's coverage by commercial product liability insurance, the income tax consequences of the taxpayer's ability to deduct product liability losses and related expenses, and the taxpayer's future potential liability due to defective products in light of the taxpayer's plans to expand the production of products currently being manufactured, provided such plans are specific, definite and feasible.

(3) Only those accumulations made with respect to products that have been manufactured, leased, or sold shall be considered as accumulations made under this paragraph. Thus, for example, accumulations with respect to a product which has not progressed beyond the development stage are not reasonable accumulations under this paragraph.

Par. 4. Section 1.537–2 is amended by removing "or" at the end of paragraph (b)(4); by removing the period at the end of paragraph (b)(5) and adding "; or" in its place, and by adding a new paragraph (b)(6) after paragraph (b)(5). The amended provision reads as follows:

§ 1.537–2 Grounds for accumulation of earnings and profits.

* * * * *

(b) *Reasonable accumulation of earnings and profits.* * * *

(6) To provide for the payment of reasonably anticipated product liability losses, as defined in section 172(i), § 1.172–13(b)(1), and § 1.537–1(f).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-7733 Filed 3-24-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 301

[Docket No. LR-11-83]

Exhaustion of Administrative Remedies for Purposes of the Recovery of Court Costs and Certain Fees in a Civil Tax Proceeding

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the circumstances in which a party normally will be considered to have exhausted the administrative remedies available within the Internal Revenue Service for purposes of the recovery of court costs and certain fees in a civil tax proceeding brought in a court of the United States (including the Tax Court). Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The proposed regulations apply to parties to civil tax proceedings and provide them with guidance concerning circumstances in which the Internal Revenue Service normally will consider a party's administrative remedies exhausted.

DATES: Written comments and requests for a public hearing must be delivered by May 24, 1983. The proposed regulations apply to civil tax proceedings commenced after February 28, 1983, and before January 1, 1986.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–11–83) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Paul H. Weisman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T 202–566–3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR Part 301) under section 7430 of the Internal Revenue Code of 1954. The proposed amendments reflect the changes made by section 292(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 572).

The proposed regulations describe the circumstances in which a party normally will be considered to have exhausted administrative remedies within the Internal Revenue Service for purposes of the recovery of court costs and certain fees in civil tax proceedings brought in a court of the United States (including the Tax Court). Prior to the adoption of section 7430, the Equal Access to Justice Act (28 U.S.C. 2412) permitted the recovery of such costs in a United States District Court or the Court of Claims, but that Act did not apply to Tax Court cases. Section 7430 now provides uniform rules for the recovery of reasonable litigation costs in any civil tax proceeding brought in a court of the United States (including the Tax Court).

In general, a prevailing party may now recover the reasonable litigation costs incurred in a civil proceeding if the proceeding relates to the determination, collection or refund of any tax, interest or penalty under the Internal Revenue Code and the party has exhausted all the administrative remedies related to that party's tax matter. However, in no event may the party recover in excess of $25,000 in any single civil proceeding.

The proposed regulations provide information concerning the circumstances in which the Internal Revenue Service normally will consider a party's administrative remedies exhausted. In general, administrative remedies are considered exhausted if the party has requested (and if granted,

participated in) an Appeals office conference on the party's tax matter prior to filing an action in a court of the United States (including a petition in the Tax Court). A party has participated in an Appeals office conference if the party has disclosed all relevant information regarding the matter to the Appeals office. In the case of the revocation of a determination that an organization is described in section 501(c)(3), a party must complete the procedures set forth in section 7428 and in regulations, rules and revenue procedures thereunder (including, until superseded, those procedures set forth in Rev. Proc. 80–25, 1980–1 C.B. 667) to exhaust its administrative remedies. Where no administrative procedure covering a party's tax matter allows the party to request an Appeals office conference, the party's administrative remedies will not be considered exhausted unless the party has filed a written claim for relief with the district director having jurisdiction over the tax matter and allowed the district director a reasonable period of time to act on the claim. A party is not required to pursue its administrative remedies if the Internal Revenue Service has notified the party in writing that such pursuit is unnecessary, has not given the party an opportunity to request an Appeals office conference before sending a statutory notice of deficiency, or has failed to grant the party an Appeals office conference with respect to a claim for refund within six month of the filing of such claim for refund. A party must participate in an Appeals office conference during either the deficiency procedures of the refund procedures with respect to tax matter, but is not required to participate during both procedures. Thus, if a party participated in an Appeals office conference with respect to a tax matter prior to the issuance of a statutory notice of deficiency, the party does not need to request an Appeals office conference after filing a claim for refund with respect to the same tax matter.

The proposed regulations apply to civil tax proceedings commenced after February 28, 1983, and before January 1, 1986.

The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Comments and Request for a Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Special Analyses

The Commissioner has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comment the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C., Chapter 6).

Drafting Information

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

List of Subjects in 26 CFR Part 301

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

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 301 are as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph. The following section is added at the appropriate place:

§ 301.7430–1 Exhaustion of administrative remedies.

(a) *In general.* Section 7430(b)(2) provides that a court shall not award reasonable litigation costs in any civil tax proceeding under section 7430 (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to the party within the Internal Revenue Service. This section sets forth the circumstances in which the Internal Revenue Service normally will consider such administrative remedies exhausted.

(b) *Tax, penalty and addition to tax*—(1) *In general.* A party has not exhausted its administrative remedies available within the Internal Revenue Service with respect to any tax matter for which an Appeals office conference is available under §§ 601.105 and 601.106 of the Statement of Procedural Rules (26 CFR Part 601) (other than a tax matter dscribed in paragraph (c)) unless the party prior to filing a civil action for refund in a court of the United States or a petition in the Tax Court—

(i) Requests an Appeals office conference in accordance with §§ 601.105 and 601.106 of the Statement of Procedural Rules;

(ii) Files a written protest if a written protest is required to obtain an Appeals office conference;

(iii) Agrees under section 6501(c)(4) to extend the time for an assessment of tax if necessary to provide the Appeals office with a reasonable time period to consider the tax matter; and

(iv) Participates, either in person or through a qualified representative described in § 601.502 of the Statement of Procedural Rules, in any Appeals office conference granted.

(2) *Participates.* For purposes of this paragraph a party or qualified representative of the party described in § 601.502 of the Statement of Procedural Rules participates in an Appeals office conference if the party or qualified representative discloses all relevant information regarding the party's tax matter to the Appeals office.

(c) *Revocation of a determination that an organization is described in section 501(c)(3).* A party has not exhausted its administrative remedies available within the Internal Revenue Service with respect to a revocation of a determination that it is an organization described in section 501(c)(3) unless, prior to filing a declaratory judgment action under section 7428, the party has exhausted its administrative remedies in accordance with section 7428, and any regulations, rules, and revenue procedures thereunder.

(d) *Actions involving summonses, levies, liens, jeopardy and termination assessments, etc.* (1) A party has not exhausted its administrative remedies available within the Internal Revenue Service with respect to a matter other than one to which paragraph (b) or (c) applies (including summonses, levies, liens and jeopardy and termination assessments) unless, prior to filing an action in a court of the United States—

(i) The party submits to the district director of the district having jurisdiction over the dispute a written claim for relief reciting facts and circumstances sufficient to show the nature of the relief requested and that the party is entitled to such relief; and

(ii) The district director has denied the claim for relief in writing or failed to act on the claim within a reasonable period after such claim is received by the district director.

(2) For purposes of this paragraph, a reasonable period is—

(i) The 5-day period preceding the filing of a petition to quash an administrative summons issued under section 7609;

(ii) The 5-day period preceding the filing of a wrongful levy action in which a demand for the return of property is made;

(iii) the period expressly provided for administrative review of the party's claim by an applicable provision of the Internal Revenue Code that expressly provides for the pursuit of administrative remedies (such as the 16-day period provided under section 7429(b)(1)(B) relating to review of jeopardy assessment procedures).

(iv) The 60-day period following receipt of the claim for relief in all other cases.

(e) *Tax matter.* For purposes of this section "tax matter" means a matter in connection with the determination, collection or refund of any tax, interest or penalty under the Internal Revenue Code.

(f) *Exception to requirement that party pursue administrative remedies.* A party's administrative remedies within the Internal Revenue Service are considered exhausted for purposes of section 7430 if—

(1) The Internal Revenue Service notifies the party in writing that the pursuit of administrative remedies in accordance with paragraphs (b), (c) and (d) is unnecessary.

(2) In the case of a petition in the Tax Court, the party did not receive a preliminary notice of proposed deficiency (30-day letter) prior to the receipt of the statutory notice of deficiency and the failure to receive such notice was not due to actions of the party (such as a refusal to sign an extension of time for assessment or to supply the district director or service center with requested information).

(3) In the case of a civil action for refund involving a tax matter other than a tax matter described in paragraph (4), the party—

(i) Exhausted the administrative remedies available within the Internal Revenue Service with respect to the tax matter prior to receipt of a statutory notice of deficiency with respect to such tax matter; or

(ii) Did not receive a preliminary notice of proposed disallowance prior to receipt of a statutory notice of disallowance; or

(iii) Did not receive either written or oral notification that an Appeals office conference had been granted within six months from the date of the filing of the claim for refund.

(4) In the case of a civil action for refund involving a tax matter under sections 6703 and 6694—

(i) The party did not receive a preliminary notice of proposed disallowance prior to receipt of a statutory notice of disallowance; or

(ii) During the six-month period following the day on which the party's claim for refund is filed, the party's claim for refund is not denied and there is no Appeals office conference with respect to the claim in which the party could participate (within the meaning of paragraph (b)).

(g) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Taxpayer A exchanges property held for investment for similar property and claims that the gain on the exchange is not recognized under section 1031. The Internal Revenue Service conducts a field examination and determines that there has not been a like-kind exchange. No agreement is reached on the matter and a preliminary notice of proposed deficiency (30-day letter) is sent to A. A does not file a request for an Appeals office conference. A pays the amount of the proposed deficiency and files a claim for refund. A preliminary notice of proposed disallowance is issued by the Internal Revenue Service. A does not request an Appeals office conference and, instead, files a civil action for refund in a United States District Court. A has not exhausted the administrative remedies available within the Internal Revenue Service.

Example (2). Assume the same facts as in example (1) except that, after receiving the preliminary notice of proposed deficiency (30-day letter) A files a request for an Appeals office conference. No agreement is reached at the conference. A pays the amount of the proposed deficiency and files a claim for refund. A preliminary notice of proposed disallowance is issued by the Internal Revenue Service. A does not request an Appeals office conference and files a civil action for refund in a United States District Court. A has exhausted the administrative remedies available within the Internal Revenue Service.

Example (3). Assume the same facts as in example (1) except A first requests an Appeals office conference after A's receipt of the preliminary notice of proposed disallowance. A is granted an Appeals office conference and A participates in such conference. A has exhausted the administrative remedies available within the Internal Revenue Service.

Example (4). Taxpayer B receives a preliminary notice of proposed deficiency (30-day letter) after completion of a field examination. B requests and is granted an Appeals office conference. The Appeals office, to obtain a reasonable period of time to consider the tax matter, requests that B sign Form 872 to extend the time for an assessment of tax. B's administrative remedies are exhausted only if B signs Form 872.

Example (5). Taxpayer M receives a preliminary notice of proposed deficiency (30-day letter). M submits a written protest and files a request for an Appeals office conference. The Appeals office sends M a written statement that M will not be granted an Appeals office conference. M is considered to have exhausted the administrative remedies available within the Internal Revenue Service.

Example (6). Taxpayer J receives a preliminary notice of proposed deficiency (30-day letter) and a written statement that J need not file a written protest or request an Appeals office conference since a conference will not be granted. J files a petition in the Tax Court after receiving the statutory notice of deficiency. J's administrative remedies available within the Internal Revenue Service are considered exhausted.

Example (7). On January 2, the Internal Revenue Service serves a summons issued under section 7609 on third-party recordkeeper B to produce records of taxpayer R. On January 5 notice of the summons is given to R. The last day on which R may file a petition in a court of the United States to quash the summons is January 25. Thereafter, R files a written claim for relief with the district director having jurisdiction over the matter together with a copy of the summons. The claim and copy are received by the district director on January 20. On January 25, R files a petition to quash the summons. R's administrative remedies available within the Internal Revenue Service are considered exhausted.

Example (8). A notice of Federal tax lien is filed in County M on March 3, in the name of R. On April 2, R pays the entire liability thereby satisfying the lien. On May 2, R files a written claim with the district director having jurisdiction over the tax matter demanding a certificate of release of lien. Thereafter, R provides the district director with a copy of the notice of Federal tax lien and a copy of the cancelled check in satisfaction of the lien, which are received by the district director on May 15. R's claim is deemed to have been filed on May 15. Accordingly, R is considered to have exhausted R's administrative remedies with respect to an action commenced after July 14 (60 days following the filing of the claim for relief on May 15).

Example (9). A revenue officer seizes an automobile to effect collection of P's liability on January 10. On January 22 R submits a written claim to the district director having jurisdiction over the tax matter claiming that R purchased the automobile from P for an

adequate consideration before the tax lien against P arose, and demands immediate return of the automobile. A copy of the title certificate and R's cancelled check are submitted with the claim. The claim is received by the district director on January 25. On January 30, R brings a wrongful levy action. R is considered to have exhausted the administrative remedies available within the Internal Revenue Service.

Example (10). The Internal Revenue Service issues a revenue ruling which holds that ear piercing does not affect a function or structure of the body within the meaning of section 213 and therefore is not deductible. Taxpayer E deducts the costs of ear piercing and following an examination, receives a preliminary notice of proposed deficiency (30-day letter) disallowing the treatment of such costs. Because of the revenue ruling, E believes a conference would not aid in the resolution of the tax dispute. Accordingly, E does not request an Appeals office conference. After receiving a statutory notice of deficiency, E files a petition in the Tax Court. E has not exhausted the administrative remedies available within the Internal Revenue Service. The issuance of a revenue ruling covering the same fact situation but taking a contrary position does not constitute notification by the Internal Revenue Service to E that the pursuit of administrative remedies is unnecessary. Similarly, the issuance to E of a private letter ruling or technical advice does not constitute notification by the Internal Revenue Service that the pursuit of administrative remedies is unnecessary.

Example (11). Taxpayer G is assessed a penalty under section 6701 for aiding in the understatement of the tax liability of a third party. G pays 15% of the penalty in accordance with section 6703 and files a claim for refund on June 15. G is not served a preliminary notice of proposed disallowance and thus cannot participate in an Appeals office conference within six months of the filing of the claim for refund. G brings an action on December 23. G has exhausted G's administrative remedies.

(h) *Effective date.* Section 7430 and the regulations thereunder apply to civil proceedings described in section 7430 filed in a court of the United States (including the Tax Court) after February 28, 1983, and before January 1, 1986.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-7761 Filed 3-24-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

33 CFR Part 204

Danger Zone, New River, N.C.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the regulations which establish Danger Zones in the New River, North Carolina and vicinity to expand the boundaries of the Browns Island target and bombing range area. The expansion is necessary to meet the training needs of the Marine Corps.

DATES: Written comments must be received on or before May 9, 1983.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Jahnke at (919) 343-4467 or Mr. Ralph T. Eppard at (202) 272-0200.

SUPPLEMENTARY INFORMATION: The Commanding General, U.S. Marine Corps Base, Camp Lejeune, North Carolina, has requested the Corps amend the regulations in 33 CFR 204.56 to expand the danger zone. The expansion is necessary to accommodate the existing training needs and insure the continued safety to persons and vessels in the area. The regulations which allows vessels to transit through the area except during periods of military training uses, remain unchanged.

Note.—The Corps of Engineers has determined that this proposed rule is not a major rule and is exempt from the general requirements of Executive Order 12291 in accordance with the exception provided military functions. The Corps has also determined that these regulations would not have a significant economic impact on a substantial number of small entities as required by Pub. L. 96-354.

List of Subjects in 33 CFR Part 204

Waterways, Transportation.

Dated: March 14, 1983.

Approved: **Paul F. Kavanaugh,**

Colonel, Corps of Engineers, Executive Director of Civil Works.

PART 204—[AMENDED]

Accordingly, the Corps of Engineers proposes to amend 33 CFR 204.56(d) as set forth below.

§ 204.56 New River, N.C., and vicinity; Marine Corps Firing Ranges.

* * * * *

(d) *Target and bombing area in Atlantic Ocean in vicinity of Bear Inlet*—(1)

The water within an area described as follows: Beginning at latitude 34°37'32", longitude 77°12'03"; thence to latitude 34°36'58", longitude 77°11'25"; thence to latitude 34°37'44", longitude 77°10'35"; thence to 34°32'27", longitude 77°06'30"; thence to latitude 34°28'55", longitude 77°15'05"; thence to latitude 34°34'50", longitude 77°15'10"; thence to the point of beginning.

* * * * *

Authority: (33 U.S.C. 1 and 3)

[FR Doc. 83-7714 Filed 3-24-83; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Glacier National Park; Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulations set forth below modify fishing season opening and closing dates, fish catch limits, and fish entrail disposal methods. It is the objective of this proposed regulation to provide for the preservation and enjoyment of the park by allowing sport fishing, and to encourage native fish species in Glacier National Park.

DATES: Written comments, suggestions, or objections, will be accepted until April 27, 1983.

ADDRESS: Comments should be directed to: Superintendent, Glacier National Park, P.O. Box 128, West Glacier, Montana 59936.

FOR FURTHER INFORMATION CONTACT: Charles B. Sigler, Chief Park Ranger, Glacier National Park, Telephone: (406) 888-5441.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Act of August 25, 1916, establishing the National Park Service, the fishery of Glacier National Park is to be managed to conserve native fish populations, as well as provide for the enjoyment of the public. Current fishing regulations for Glacier were adopted more than a decade ago. During the past four years, considerable data concerning the park fishery have been gathered by the U.S. Fish and Wildlife Service, and the park aquatic biologist. Conclusions based on these data indicated the present fishing regulations are in need of change. Intent is to better encourage native fish species, discourage exotic species, and to improve fish entrail disposal. It is also felt the park fishing season can closely match the State's general season.

Current regulations provide for a catch limit of an aggregate of five game fish, not to exceed three cutthroat trout, lake trout, bull trout, or grayling. Some waters are closed to fishing to protect native cutthroat and bull trout spawning stock. Special regulations involving

catch and release fishing and fly fishing only apply to a few waters. Sanitation regulations prohibit disposal of fish entrails in fresh waters. The current park fishing season extends from June 5 until October 15.

Daily catch limits will be changed in the proposed rule to the following: cutthroat trout 2; bull trout 1; burbot (ling) 5; northern pike 5; whitefish 5; kokanee salmon 5; brook trout 5; grayling 5; lake trout 5, except on Lake McDonald, where the limit is 10; rainbow trout 5. The possession limit will not exceed 10 fish.

In backcountry waters, fish entrails may be disposed of by puncturing the air bladder and depositing in deep water in the lake or stream from which they were taken, at a distance at least 200 feet from the nearest campsite. This will allow a sanitary and safe method of entrail disposal in bear habitat, instead of burying, depositing on the ground, or packing out. This regulation is part of the bear management program, and when implemented would reduce the possibility of bears being drawn into confrontations with humans, while scavenging the inedible fish parts deposited on lake shores or stream banks.

The proposed regulation changes will lengthen the general park season to extend from 12:01 a.m., on the third Saturday of May, until midnight of November 30, with some exceptions. This will coincide with the general State fishing season outside the park. A special season for lake trout will allow fishing on Lake McDonald from April 1 until the third Saturday in May, and December 1 through December 31. There will be no change in the closure of tributary streams of the North Fork and Middle Fork of the Flathead River, for protection of native bull trout spawning areas. Moreover, there will be no change in waters previously restricted to fly fishing only or catch and release fishing only.

Public Participation

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulation to the address noted at the beginning of the rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: Charles B. Sigler, Chief Park Ranger; William F. Conrod, Resource Management Ranger; David Lange, Resource Management Ranger; Dr. Leo Marnell, Aquatic Biologist; all of Glacier National Park.

Paperwork Reduction Act

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

Compliance with Other Laws

The Department of the Interior has determined that this document is not a "major rule" under Executive Order 12291 and certifies that this document will not have a "significant economic effect on a substantial number of small entities" under the Regulatory Flexibility Act. (5 U.S.C. 601 *et seq.*) By extending fishing opportunities, this regulation should have a positive, albeit limited, effect on local sporting goods stores and other establishments provisioning anglers.

Pursuant to the National Environmental Policy Act, 42 U.S.C. 4332, the Service has prepared an environmental assessment on this proposed regulation, which is available at the address noted above.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National parks.

PART 7—[AMENDED]

In consideration of the following, it is proposed to amend 36 CFR 7.3 by revising the introductory text of paragraph (a) and adding paragraph (a)(5) and revising the introductary text of paragraph (b)(2) and adding paragraph (b)(3) as follows:

§ 7.3 Glacier National Park.

(a) *Fishing, open season.* All waters in the parks shall be open to fishing from 12:01 a.m. on the third Saturday of May and end at 12 midnight on November 30, except as otherwise provided by the following restrictions:

* * * * *

(5) Lake McDonald will be extended to fishing for lake trout only from 12:01 a.m., April 1 to 12 midnight on the third Friday in May, and from 12:01 a.m. on December 1 to 12 midnight, December 31.

(b) *Fishing, daily limit of catch, possession limit and entrail disposal.*

* * * * *

(2) The daily limit for sport fish in waters of Glacier National Park are: cutthroat trout 2; bull trout 1; burbot (ling) 5; northern pike 5; whitefish 5; kokanee salmon 5; brook trout 5; grayling 5; rainbow trout 5; lake trout 5, except in Lake McDonald, where the limit is 10. The possession limit will not exceed 10 fish. However:

(i)* * *

(3) In backcountry waters, fish entrails will be disposed of by puncturing the air bladder and depositing the entrails in deep water in the lake or stream from which they were taken, at a distance of 200 feet or more from any campsite.

* * * * *

Dated: February 25, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-7738 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF ENERGY

Office of the Secretary

41 CFR Parts 9-1, 9-3, and 9-4

Procurement Regulations

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is to amend the DOE Procurement Regulations. The revisions are intended to update the Regulations as a result of changes in Government-wide Federal Procurement Regulations and to (i) provide new procedures relating to debarment, suspension and ineligibility of contractors, (ii) revise and appropriately restructure profit and fee determination policies and techniques for use in connection with Research and Development, Manufacture, Architect-Engineer, and Support Service contracts and subcontracts, (iii) provide guidance for establishing values for in-kind contributions provided by a performing contractor or non-federal third-party as a part of a contract, or agreement, cost participation requirements, and (iv) establish policies and procedures to be followed under cost type contracts which require contractors to acquire, use or dispose of real property or interest therein on behalf of the Department. A detailed listing of the proposed changes is given below under the section entitled "Supplementary Information."

DATE: Written comments should be submitted not later than April 25, 1983 to be considered.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Branch, MA-421.1.

Forrestal Building, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Robert Benson, Contract Pricing Policy Branch, MA–421.1, Procurement and Assistance Management, Department of Energy, (202) 252–8178

Scott Sheffield (CHANGE 10.2 only), Procurement Management Review Division, MA–442, Procurement and Assistance Management, (202) 252–8267

Mary Ann Masterson or Robert Broxton (CHANGE 10.2 only), Office of General Counsel, AGC for Procurement and Financial Incentives, GC44, Department of Energy, (202) 252–1526.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Procedural Requirements.
III. Public Comments.

I. Background

Under Section 644 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (41 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the Department of Energy Procurement Regulations (DOE–PR) were promulgated with an effective date of June 30, 1979 (44 FR 34434, June 14, 1979), 41 CFR Chapter 9.

The specific changes being proposed are as follows:

Change 10.1 is a listing of additions or alterations to the Table of Contents.

Change 10.2 would replace the existing text of Subpart 9–1.6, "Debarred, Suspended, and Ineligible Bidders," in order to implement Temporary Regulation 65 of the Federal Procurement Regulations. The FPR amendment prescribes revised policies and procedures for debarment and suspension by agencies including a requirement that GSA issue a consolidated list of all contractors debarred, suspended, or declared ineligible. The amendment necessitates a revision of current DOE debarment and suspension policy which predates the Government-wide consolidated approach. Prior to Temporary Regulation 65, debarment, suspension and ineligibility determinations were handled by the individual agencies and there was no mechanism by which such actions had Goverment-wide applicability. The Temporary Regulation changed that by providing that such actions by individual agencies will be reported to GSA which will place the firm on a Government-wide consolidated list of debarred, suspended, or ineligible contractors. The agencies must recognize such debarments unless they can individually justify not doing so. This change also limits the review of debarment or suspension determinations by the DOE Board of Contract Appeals. Previously, the Board had final agency authority to decide debarment cases provided a hearing had been requested. After this change, the decision of the debarring/suspending official will be final unless the Board sets it aside based on a determination that the decision was arbitrary, capricious or clearly erroneous.

Change 10.3 replaces the existing text of § 9–3.808 of Subpart 9–3.8, Profit or Fee," in order to implement Amendment 225 of the Federal Procurement Regulations. The FPR amendment deals with cost of money cost principles covering facilities capital and capital assets under construction, and policies for establishing profit or fee prenegotiation objectives. The revision results in a restructuring and clarification of profit and fee determination policies in order to provide an approach that will: (i) Ensure appropriate consideration by contracting officers of the relative value of prescribed profit influencing factors when setting profit objectives and (ii) serve as a basis for documenting the objective and explaining any significant departures from it in reaching final agreement. This results in a structured system, which includes use of a Weighted Guidelines Technique. This system is designed to properly reflect differences among contracts, and the circumstances relating thereto, and to properly describe appropriate relative profit/fee weights in consideration for these differences and circumstances, through the use of relative weights developed for application by the contracting officer to prescribed measurement bases. Each profit factor or subfactor, or component thereof, has been assigned weights relative to its value to the contract's overall effort. The effect of the FPR cost of money cost principles has been recognized in the assigned weights, and ranges within the weights. In general, the system applies to all DOE negotiated procurement actions, except for construction and construction management contracts; contracts for the management, operation and/or maintenance of Government facilities; contracts with educational organizations; and commercialization and demonstration type contracts. Profit and fee prenegotiation development techniques for these excepted contracts are covered by existing DOE–PR provisions unaffected by this revision.

Change 10.4 adds new coverage to the existing text of Subpart 9–3.9, "Subcontracting Policies and Procedures," in order to provide policy regarding determination of profit or fee objectives under negotiated subcontracts. The policy coincides with the provisions set forth in Change 10.3. In brief, the policy provides that DOE prime contractors may use a weighted guidelines or a structured approach that discriminates among different levels of investment if the acquisition would be subject to the weighted guidelines under a prime DOE contract.

Change 10.5 adds new policy guidance to Subpart 9–4.59, "Cost Participation." The policy guidance covers the evaluation and valuation of in-kind contributions provided by a performing contractor or non-federal third party as part of cost-participation requirements. In-kind contributions represent noncash contributions provided by the performing contractor or a non-Federal third party who is participating with DOE in a co-sponsored project or contract. The provisions require that in-kind contributions must be verifiable, exclusive to the DOE project or contract, necessary for effective project accomplishment, representative of charges allowable under applicable Federal cost principles, and that they have not been previously paid for by the Government. In-kind contributions are generally valued on a cost basis, not to exceed fair market value.

Change 10.6 adds a new Subpart 9–4.60, "Acquisition, Use and Disposal of Real Estate," to establish policies and procedures to be followed under cost-type contracts which require contractors to acquire, use or dispose of real property or interest therein on behalf of the Department. These policies and procedures require, by a prescribed contract clause, contractors to obtain the approval of the DOE contracting officer prior to the acquisition of such real property by purchase, lease, or acquisition by temporary interest through easement or by license or permit. The contractor is also required to follow acquisition procedures provided by the contracting officer.

Change 10.7 makes the requirement proposed by Change 10.6 applicable to the Department's Operating and On-site contractors.

II. Procedural Requirements

A. *Review Under Executive Order 12291.* Inasmuch as this proposed rule relates to agency management of the procurement function, the OMB

clearance procedures set forth in Executive Order 12291 (February 17, 1981) are not applicable.

B. *Review Under the Regulatory Flexibility Act.* This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96-354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. *Public Hearing.* The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, pursuant to Pub. L. 95-91, the DOE Organization Act, the Departmnt does not plan to hold a public hearing on this proposed rule.

III. Public Comments

Interested persons are invited to participate by submitting data, views or arguments with respect to the proposed DOE-PR amendments set forth in this notice. All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final regulation.

List of Subjects in 41 CFR Parts 9-1, 9-3 and 9-4

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 41 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C. March 17, 1983.

Berton J. Roth,

Deputy Director, Procurement and Assistance, Management Directorate.

The regulations in 41 CFR Chapter 9 are proposed to be amended as set forth below.

Authority: Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599, (42 U.S.C. 7254).

Note.—As an aid in identifying specific proposed changes to the DOE Procurement Regulations, a two-digit identification number is assigned to each specific change. The first digit represents the numerical sequence of proposed changes; thus, this is Change 10 to indicate that this is the tenth time that DOE has issued a notice of proposed rulemaking for the purpose of amending 41 CFR Chapter 9. The second digit is the numerical sequence of specific changes proposed within a particular notice; thus, the first change within the tenth notice is identified as Change 10.1.

Change 10.1

The Table of Contents for Part 9-1, 9-3, Part 9-4 and Part 9-50 is amended by the following additions or alterations:

* * * * *

PART 9-1—GENERAL

* * * * *

Subpart 9-1.6—Debarment, Suspension, and Ineligibility

9-1.600 Scope of subpart.
9-1.603 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.
9-1.603-1 Basis for entry on DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors.
9-1.604 Treatment to be accorded firms and individuals in debarred, suspended, or ineligible status.
9-1.650 Agency procedure.
9-1.650-1 DOE procedural requirements.
9-1.650-2 Reporting procedures.
9-1.650-3 Collection of information and investigation.
9-1.650-4 Initiation of action.
9-1.650-5 Appeal of debarring/suspending official's decision.
9-1.650-6 Notice of suspension or final debarment determination.

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PART 9-3—PROCUREMENT BY NEGOTIATION

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Subpart 9-3.8—Price Negotiation Policies and Techniques

* * * * *

9-3.808 Profit or fee.
9-3.808-1 [Reserved]
9-3.808-2 General.
9-3.808-4 Contracting Officer's Responsibilities.
9-3.808-6 Profit analysis factors.
9-3.808-50 Weighted guidelines.
9-3.808-51 Exceptions.
9-3.808-52 Special consideration—contracts with nonprofit organizations (other than educational institutions.
9-3.808-53 Contracts with educational institutions.
9-3.808-54 Alternative techniques.
9-3.808-55 Weighted guidelines application considerations.

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Subpart 9-3.9—Subcontracting Policies and Procedures

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9-3.903-2 Review and approval of subcontracts.

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Subpart 9-4.59—Cost Participation

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9-4.5907 In-kind contributions.

Subpart 9-4.60—Acquisition, Use and Disposal of Real Estate

9-4.6000 Scope of subpart.
9-4.6001 General.
9-4.6002 Policy.
9-4.6003 Application.
9-4.6004 Competition.

* * * * *

PART 9-50—OPERATING AND ON-SITE SERVICE CONTRACTS

9-50.508 Real estate management.
9-50.508-1 Scope.

Change 10.2

Change 10.2 replaces the existing text of Subpart 9-1.6 "Debarred, Suspended, and Ineligible Bidders" in order to implement Federal Procurement Regulations Temporary Regulation No. 65. The FPR amendment prescribes revised policies and procedures for debarment and suspension by agencies, including a requirement that GSA issue a consolidated list of all contractors debarred, suspended, or declared ineligible. The amendment necessiates a revision of current DOE debarment and suspension policy. Subpart 9-1.6 is revised to read as follows:

Subpart 9-1.6—Debarment, Suspension, and Ineligibility

§ 9-1.600 Scope of subpart.

This subpart implements and supplements the policies and procedures set forth in FPR Subpart 1-1.6 relating to the debarment, suspension, or ineligibility of contractors for any cause.

§ 9-1.603 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.

The Senior Procuerment Official, Headquarters, shall establish and maintain a list of firms or individuals debarred, suspended, or declared ineligible for contracts with DOE and DOE contractors. This list shall be in addition to the GSA Consolidated List of Debarred, Suspended, and Ineligible Contractors. The Senior Procuerment Official, Headquarters, shall periodically publish this list and distribute it to DOE Contracting Officiers. DOE procuring activities shall refer to the GSA and the DOE lists before soliciting offers from, awarding contracts to, renewing or otherwise extending the duration of an existing contract with, or conseting to subcontracts with a contractor.

§ 9-1.603-1 Basis for entry on DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors.

The Senior Procurement Official, Headquarters, shall place all organizations and individuals debarred, suspended, or declared ineligible by DOE in accordance with FPR Subpart 1-1.6 on the DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors as soon as determination is made of debarment, suspension, or ineligibility. DOE debarments and suspensions in accordance with FPR Subpart 1-1.6 are subject to the procedural requirements in § 9-1.650.

§ 9-1.604 Treatment to be accorded firms or individuals in debarred, suspended, or ineligible status.

DOE shall treat contractors who have been debarred, suspended, or declared ineligible as provided in FPR 1-1.604.

§ 9-1.650 Agency procedure.

§ 9-1.650-1 DOE procedural requirements.

This section establishes DOE internal procedures pursuant to FPR Subpart 1-1.605-3(b)(1) and 1-1.606-3(b)(1).

§ 9-1.650-2 Reporting procedures.

Heads of Procuring Activities, or designees, are responsible for reporting any evidence of offenses or irregularities which may be grounds for debarment, suspension, or ineligibility. The report shall be made to the Senior Procurement Official, Headquarters. The report shall contain a full statement of facts, and shall be supported by appropriate exhibits. If all necessary information is not readily available, a preliminary report shall be forwarded to be followed as soon as practicable by a completely documented report.

§ 9-1.650-3. Collection of information and investigation.

The Senior Procurement Official, Headquarters, shall collect and evaluate information to determine whether an alleged offense or irregularity warrants the initiation of a debarment or suspension proceeding.

§ 9-1.650-4 Initiation of action.

The Senior Procurement Official, Headquarters, with the concurrence of Counsel and after consultation with appropriate offices, shall determine whether causes and conditions exist to initiate a debarment and/or suspension action. The Senior Procurement Official, Headquarters, is both the debarring and the suspending official.

§ 9-1.650-5 Appeal of debarring/suspending official's decision.

All decisions of the debarring/suspending official are subject to appeal before the DOE Board of Contract Appeals upon the request of the debarred or suspended contractor. Notification of intent to appeal must be filed with the Board within 30 days after the date of the contractor's notification of debarment or suspension. The appeal of the decision of the debarring/suspending official will be based on the record before the debarring/suspending official. The decision of the debarring/suspending official shall be final and not be set aside by the Board unless the decision is arbitrary and capricious or clearly erroneous.

§ 9-1.650-6 Notice of suspension or final debarment determination.

The Senior Procurement Official, Headquarters, shall promptly notify all Senior Program Officials and Heads of Procuring Activities of all suspension and debarment actions taken pursuant to this subpart.

Change 10.3

Change 10.3 replaces the existing text of section 9-3.808 of Subpart 9-3.8, "Profit or Fee," in order to implement Amendment 225 of the Federal Procurement Regulations. The FPR amendment deals with a cost of money cost principle covering facilities capital cost of money and cost of money as an element of the capital assets under construction. The revision results in a restructuring and clarification of profit and fee determination policies. Sections 9-3.808, 9-3.808-2, 9-3.808-50, 9-3.808-51, and 9-3.808-52 are revised, § 9-3.808-1 is removed and reserved, and §§ 9-3.808-4, 9-3.808-6, 9-3.808-53, 9-3.808-54, and 9-3.808-55 are added to read as follows:

Subpart 9-3.8—Price Negotiation Policies and Techniques

* * * * *

§ 9-3.808 Profit or fee.

§ 9-3.808-1 [Reserved]

§ 9-3.808-2 General.

(a) *Objective.* It is the intent of DOE to remunerate contractors for financial and other risks which they may assume, resources they use, and organization, performance and management capabilities they employ. Profits or fees shall be negotiated for this purpose; however, when profit is negotiated as a separate element of the contract price, the aim of negotiation should be to fit a profit provision to the acquisition, giving due weight to effort, risk, facilities investment, and special factors as set forth in this subpart.

(b) *Commercial (for profit) organizations.* Profit or fee prenegotiation objectives for contracts with commercial (for profit) organizations shall be determined as provided in this subpart.

(c) *Nonprofit organizations.* It is DOE's general policy to pay fees in contracts with nonprofit organizations other than educational institutions and governmental bodies; however, it is a matter of negotiation whether a fee will be paid in a given case. In making this decision, consider whether the contractor is ordinarily paid fees for the type of work involved. The profit objective should be reasonable in relation to the task to be performed and the requirements placed on the contractor.

(d) *Educational institutions.* It is DOE policy not to pay fees under contracts with educational institutions.

(e) *State, local and Indian tribal governments.* Profits or fees shall not be paid under contracts with State, local, and Indian tribal Governments.

(f) *Management and operating contracts.* Refer to Part 9-50 for profit and fee techniques applicable to management and operating contracts.

(g) *Cost-plus-award-fee-contracts.* When a contract is to be awarded on a cost-plus-award-fee basis in accordance with DOE PR 9-3.405-50, several special considerations are appropriate.

(1) The base fee portion of the fee objective of an award fee contract should not normally exceed 50% of the otherwise applicable fixed fee, arrived at using the weighted guidelines techniques. However, the base amount may range from 0 up to the 50% level of the CPFF fee amount. In the event 50% is exceeded, appropriate documentation shall be entered into the contract file. In no event shall the base fee exceed 70% of the fixed fee amount.

(2) The base fee plus the amount included in award fee pool should normally not exceed the fixed fee using the weighted guidelines techniques by more than 50%. However in the event the base fee is to be less than 50% of the fixed fee, the maximum potential award fee may be increased commensurate with the decreases in base fee amounts.

(3) The following maximum potential award fees shall apply in award fee contracts: (percent are stated as percent of the fixed fee amount determined by the use of the weighted guidelines technique).

Base fee percent	Award fee percent	Maximum total percentage
50	100	150
40	120	160
30	140	170
20	160	180
10	180	190
0	200	200

(4) Prior approval of the Senior Procurement Official, Headquarters, is required for total fees (base plus award fee pool) exceeding the guidelines in § 9-3.808-2(g)(3).

(h) *Cost sharing contracts.* No fee or profit shall be paid when the contract involves a cost sharing arrangement.

§ 9-3.808-4 Contracting Officer's Responsibilities.

(h) The statutory limitations on profit and fees as set forth in Federal Procurement Regulation § 1-3.808-4(e) shall be followed, except as exempted for DOE architect-engineer contracts covering AEC and BPA functions per § 9-3.405-5(b). Waivers to apply the maximum cost-plus-award-fee percentage in § 9-3.808-2(g)(3) in those situations that shall result in potential fees exceeding the limitations cited herein shall be forwarded to the Senior Procurement Official, Headquarters.

§ 9-3.808-6 Profit analysis factors.

A structured system consistently applied, provides contracting officers with (a) a technique that will insure consideration of the relative value of the appropriate profit factors described in § 9-3.808-50 in the establishment of a profit objective and the conduct of negotiations; and (b) a basis for documentation of this objective, including an explanation of any significant departure from it in reaching a final agreement. The contracting officer's analysis of these profit factors can be based on information available prior to negotiations. Such information is furnished in proposals, audit data, performance reports, preaward surveys and the like.

§ 9-3.808-50 Weighted Guidelines.

(a) To properly reflect differences among contracts and the circumstances relating thereto, and to properly describe appropriate relative profit/fee weights in consideration for these differences and circumstances, relative weights have been developed for application by the contracting officer to prescribed measurement bases. This is a structured system, referred to herein as weighted guidelines. Each profit factor or subfactor, or component thereof, has been assigned weights relative to their value to the contract's overall effort. The range of weights to be applied to each profit factor are set forth in (f) below. Weighted guidelines application considerations are set forth in § 9-3.808-55.

(b) Except as set forth in § 9-3.808-51 below, the weighted guidelines method shall be used in establishing the profit objective for negotiation of contracts where cost analysis is performed.

(c) Contractors shall not be required to submit the details of their profit objectives, for purposes of the weighted guidelines evaluations and development, but they shall not be prohibited from doing so if they desire.

(d) The negotiation process does not contemplate or require agreement on either estimated cost elements or profit elements. Accordingly, although the details of analysis and evaluation may be discussed in the fact-finding phases of the negotiation to develop a mutual understanding of the logic of the respective positions, specific agreement on the exact weights or values of the individual profit factors is not required and shall not be attempted.

(e) If a change or modification is of a relatively small dollar amount and is basically the same type of work as required in the basic contract, the application of the weighted guidelines method will generally result in a profit objective similar to the project objective in the basic contract and, therefore, the basic rate may be applied to the contract change or modification. In cases where the change or modification calls for substantially different work, then the basic contract profit and the contractor's effort may be radically changed and a detailed analysis would be a necessity. Also, if the dollar amount of the change or contract specification is very significant in comparison to the contract dollar amount, a detailed analysis should be made.

(f) The factors set forth below are to be used in determining DOE profit objectives. The factors and weight ranges for each factor shall be used in all instances where the weighted guidelines are applied.

Profit factors	Weight ranges (percent)
I. Contractor Effort (Applied to Cost)	
A. Material acquisitions:	
1. Purchased parts	1 to 3.
2. Subcontracted items	1 to 4.
3. Other materials	1 to 3.
B. Labor skills:	
1. Technical and managerial	
a. Scientific	10 to 20.
b. Project management/administration.	8 to 20.
c. Engineering	8 to 14.
2. Manufacturing	4 to 8.
3. Support services	4 to 14.
C. Overhead:	
1. Technical and managerial	5 to 8.
2. Manufacturing	3 to 6.
3. Support services	3 to 7.
D. Other direct costs	3 to 8.
E. G&A (General Management) expenses	5 to 7.
II. Contract Risk (type of contract—applied to total cost of items IA thru E and IVA.)	0 to 8.
III. Capital investment (Applied to NBV of Allocable Facilities).	5 to 20.
IV. Independent Research and Development	
A. Investment in IR&D program (Applied to Allocable IR&D Costs).	5 to 7.
B. Developed items employed (Applied to total of Profit $ for items IA thru E).	0 to 20.
V. Special Program Participation (Applied to total of Profit $ for items IA thru E).	−5 to +5.
VI. Other Considerations (Applied to total of Profit $ for items IA thru E).	−5 to +5.
VII. Productivity/Performance (Special Computation).	(as computed).

§ 9-3.808-51 Exceptions.

(a) For contracts not expected to exceed $500,000, the weighted guidelines need not necessarily be used; however, the contracting officer may use the weighted guidelines for contracts below this amount if he elects to do so.

(b) For the following classes of contracts, the weighted guidelines shall not be used:

(1) Commercialization and demonstration type contracts;

(2) Management and operating contracts for management, operation and/or maintenance of Government facilities;

(3) Construction contracts;

(4) Construction management contracts;

(5) Contracts primarily requiring delivery of material supplied by subcontractors;

(6) Termination settlements; and

(7) Contracts with educational institutions.

(c) In addition to paragraphs (a) and (b) of this section, the contracting officer need not use the weighted guidelines in unusual pricing situations where the weighted guidelines method has been determined to be unsuitable. Such exceptions shall be justified in writing and shall be authorized by the Head of the Procuring Activity. The contract file shall include this documentation and any other information that may support the exception.

(d) If the contracting officer makes a written determination that the pricing situation meets any of the circumstances set forth above, other methods for establishing the profit objective may be used. For contracts other than those subject to Part 9-50, these methods shall be supported in a manner similar to that

used in the weighted guidelines (profit factor breakdown and documentation of profit objectives); however, investment or other factors that would not be applicable to the contract shall be excluded from the profit objective determination. It is intended that the methods will result in profit objectives for noncapital intensive contracts that are below those generally developed for capital intensive contracts.

9-3.808-52 Special considerations—contracts with nonprofit organizations (other than educational institutions).

(a) For purposes of determination, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, of which no part of the net earnings inure to the benefit of any private shareholder or individual, of which no substantial part of the activities is carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office, and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(b) Where a contract with a nonprofit organization is for the operation of Government-owned facilities, fee should be calculated using the procedures and schedules applicable to operating contracts as set forth in Part 9-50.

(c) In computing the amount of fee to be paid, take into account the tax posture of the nonprofit organization. While it is difficult to establish the degree to which a fee under any given contract contributes to an organization's overall net profit, assume that there is an element of profit in the fee paid.

(d) In order to assure consideration of the tax posture of nonprofit organizations during fee negotiation, calculate the fee as for a contract with a commercial concern and then reduce it at least 25%. However, depending on the circumstances, the contracting officer may pay fees somewhere between this amount and the appropriate fee of a commercial concern. When this is the case, document the contract files to spcifically state the reason or reasons.

§ 9-3.808-53 Contracts with educational institutions.

In certain situations DOE may contract with a university to manage or operate Government-owned laboratories. These efforts are essentially apart from, and not in conjunction with, their other activities, and the complexity and magnitude of the work are not normally found in standard university research or study contracts. These operating contracts are subject to the provisions set forth in § 9-50.306-2.

§ 9-3.808-54 Alternative techniques.

(a) Fees to be paid on construction contracts and construction management contracts shall be determined in accordance with the Profit/Fee Technique for construction contracts set forth in § 9-18.307-50.

(b) Fees to be paid on contracts under $500,000, when not using the weighted guidelines, shall be developed by the contracting officer by giving judgmental consideration to the factors appropriate to DOE profit considerations discussed in § 9-3.808.

(c) Contracts which require only delivery or furnishing of goods or services supplied by subcontracts shall include a fee or profit which, in the best judgment of the contracting officer, is appropriate. It would be expected there would be a declining relationship of profit/fee dollars in relationship to total costs. The higher the cost of subcontracts, for example, the lower the profit/fee ratio to these costs would be.

(d) Profit/Fee considerations in termination settlements are often a question of equity. They are a matter of mutual negotiation. They should not, however, exceed what would have otherwise been payable under weighted guidelines had the termination not occurred.

§ 9-3.808-55 Weighted guidelines application considerations.

(a) *General.* (1) Section 9-3.808-50(f) lists those DOE factors which are given consideration for profit/fee determination in all cases in which profit is to be specifically negotiated. This list should be used in developing the profit/fee objective amounts.

(2) The profit/fee elements (factors or subfactors) relating to Contractor Effort, as shown § 9-3.808-50(f), item I, are similar to those cost elements contained in most constractor Contract Pricing Proposals. Often, individual proposals will be in a different format, but, since these factors and subfactors are broad and basic, they provide sufficient guidance to evaluate all items of cost generally found in proposals.

(3) In making a judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors, together with consideration for evaluating them as set forth herein.

(b) *Contract Effort.* (1) This factor is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's basis responsibility for contract performance, takes into account what resources are necessary, and what the contractor must do, to accomplish a conversion of ideas and materials into the final product or service called for in the contract. This is a recognition that, within a given performance output or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity; and, that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. The evaluation of this factor requires an analysis of the cost content of the proposed contract, as discussed in paragraphs (b)(2) through (4) of this section. In summary:

(i) Under the weighted guidelines method, the contracting officer shall first measure Contractor Effort by assigning a profit percentage, within the designated weight ranges, to each element of contract cost recognized by the contracting officer. *Not to be included as part of the cost base (for purposes of computing profit) is any amount calculated for the cost of money for facilities capital computed in accordance with Cost Accounting Standard 414.*

(ii) After computing a total dollar profit for Contractor Effort, the contracting officer then shall provide for any specific profit dollar assigned for cost risk, facilities investment risk, and the other designated factors.

(2) The following comprise the base elements for measuring Contractor effort:

(i) *Material Acquisition.* Analysis of material acquisition cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items or services, and other materials, including consideration of the number of orders and supplies and whether established sources are available or new sources must be developed. In reviewing this element:

(A) The contracting officer shall also determine whether the contractor will obtain the material and tooling by routine orders from readily available suppliers (particularly orders of substantial value in relation to the total contract cost) or by subcontracts, considering the extent to which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements.

(B) Consideration shall be given to the managerial and technical efforts

necessary for the prime contractor to administer subcontracts and select subcontracts, including efforts to break out subcontractors as sole sources through the introduction of competition. These determinations shall be made for purchases of raw materials or basic commodities, purchases of processed materials, including all types of components of standard or near standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end item. In the application of this criterion, it should be recognized that the contribution of the prime contractor to this purchasing program may be substantial. This may apply in the management of subcontracting programs involving many sources, new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representative.

(C) Recognized costs proposed as direct material costs, or proposed as material overhead costs, like scrap charges, shall be treated and evaluated as material costs for profit evaluation.

(D) If intracompany transfers are accepted at price, in accordance with FPR 1-15.205-22(e), they shall be evaluated as material. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor, and overhead.

(ii) *Labor (technical and managerial, manufacturing, and support services).* Analyses of the labor cost content of the contract shall include evaluation of the comparative quality and level of the talents, skills, and experience of those personnel to be employed for contract performance. In reviewing this element:

(A) Technical and managerial labor shall be evaluated, for the purpose of assigning profit dollars, by giving consideration to the amount of notable scientific, unusual or scarce engineering, and top management talent needed in contrast to journeyman engineering effort, professional staff or closely related supporting personnel. The diversity, or lack thereof, of scientific, engineering and managerial specialities, required for contract performance and the corresponding need for related supervision and coordination shall be evaluated. By way of definition, project and administration labor falling within this category includes senior project management personnel who oversee and direct the work, and usually consist of the project managers, project engineers, and comparable management personnel who form the project management team that plans, directs, and takes responsibility for the execution of the program or project assignment. The cost element for project and administration labor usually applies to A-E contracts. The weight assigned will take into consideration the dollar amount of the project supervised.

(B) Manufacturing labor shall be evaluated by giving consideration to the variety and range of required manufacturing labor skills (i.e., department heads, supervisors, skilled and unskilled labor) and the contractor's manpower resources for meeting these requirements.

(C) Support services labor shall be evaluated in a manner similar to the above by assigning higher weights to professional-type skills and lower weights to semi-professional or other type skills required for contract performance. Support services labor represents those classifications of direct labor whose efforts are not identifiable with the descriptions of technical and managerial labor described in paragraph (b)(2)(ii)(A) of this section and may include labor classifications assigned exclusively for contract performance, such as on-site A-E firm employees performing project activities related to accounting, contract administration (including reporting), cost engineering, secretarial, clerical and the like. Care should be taken that direct charges of this nature are appropriately classified as direct rather than indirect, and that like activities are not allocated indirectly either to this contract or to the contractor's other work assignments. A weighting in excess of 9 percent for support service contract labor normally will be justified only when the quality, skill, and experience of the support labor warrants a weighting corresponding to (b)(2)(ii)(A) of this section.

(iii) *General Management (overhead and G&A but exclusive of IR&D costs).* in reviewing this element:

(A) Analysis of overhead and G&A expenses includes evaluation of the makeup of these expenses and how much they contribute to contract performance. This analysis shall include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements shall be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools shall be evaluated to determine whether they are routine expenses (such as utilities, supplies, and maintenance) and hence given lesser profit consideration, or whether they are significant contributing elements. Depreciation expenses on facilities capital will be excluded from consideration since the profit reward for facilities capital investment is separately weighted as discussed in § 9-3.808-55(d) of this section. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole. The procedure for assigning relative values to these overhead expenses differs from the method used in assigning values of the direct labor. The upper and lower limits assignable to the direct labor are absolute. In the case of overhead expenses, individual expenses may be assigned values outside the range as long as the composite ratio is within the range.

(B) It is not necessary that the contractor's accounting system break down the overhead expenses within the classification of technical and managerial (or engineering) overhead, manufacturing overhead, and general and administrative expenses, unless dictated otherwise by Cost Accounting Standards (CAS). The contractor whose accounting system only reflects one overhead rate on all direct labor need not make changes to reflect more detail data (if CAS exempt) to correspond with the above classifications. In evaluating such a contractor's overhead rate, the contracting officer can break out the applicable sections of the composite rate which can be classified as technical, managerial, or engineering overhead, manufacturing overhead, and general and administrative expenses and follow the appropriate evaluation technique.

(C) There is a critical factor to consider in the determination of profit in this area. Management problems surface in various degrees and the management expertise exercised to solve them shall be considered as an element of profit. For example, a new program for an item that is on the cutting edge of the state of the art will cause more problems and require more managerial time and abilities of a higher order than a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons shall be adjusted downward as many of the problems may have been solved. In any event, an evaluation shall be made of the underlying managerial effort involved on a case-by-case basis.

(D) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses with each acquisition of substantially the same project or service with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, the

weight to be assigned may be used for future contracts with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or until the factors discussed in paragraph (b)(2)(ii)(c) of this section are relevant.

(iv) *Other direct costs (exclusive of CAS 414, facilities capital cost of money).* In evaluating this element, it should be remembered:

(A) Proposals, particularly for research and development, often list as direct costs the kinds of expenses usually treated as indirect for other contracts. Examples are travel and subsistence, consultants, telephone, computer costs and reports reproduction. The accounting treatment of a cost category does not change the weight appropriate to the cost being evaluated.

(B) The weight ranges in the format cover the broad categories of direct material, labor and overhead and general and administrative (G&A) expenses. It also recognizes that cost submissions may vary and stipulates that all cost categories will fall under one of the broad groupings. Because other direct costs are not direct material or direct labor, it follows that they will be considered as indirect costs for weighting purposes.

(c) *Contract risk.* (1) This factor reflects the policy of the Department of Energy that contractors bear an equitable share of contract cost risk, and to compensate them for the assumption of that risk. A contractor's risk associated with costs to perform under a Government contract is usually minimal under cost-reimbursement-type contracts. In developing the prenegotiation project objective, the contracting officer will need to consider the type of contract anticipated to be negotiated and the associated contractor risk when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This is one of the most important factors in arriving at prenegotiation profit objectives.

(2) Profit/Fee Allowances for Contractor's assumption of contract cost risk shall require a determination of the degree of cost responsibility the contractor assumes, and the reliability of the cost estimates in relation to the task assumed. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, losing potential profits in other fields, or any risk on the part of the contracting activity, such as the risk of not acquiring an effective product or service, are not within the scope of this factor.

(3) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk of contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-fixed-fee contract, requiring only that the contractor use his best efforts to perform a task, and a firm fixed-price contract for a complex item. A cost-plus-fixed-fee contract reflects a minimum assumption of cost responsibility, whereas a firm fixed-price contract reflects a complete assumption of cost responsibility.

(4) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates which, among other things, take the difficulty of the task into consideration. Prior production experience assists the contractor in preparing reliable cost estimates on new contracts for similar equipment.

(5) Contractors are likely to assume greater cost risk when confident that contracting officers analyze the risk incident to proposed contracts and show they are willing to compensate contractors for it. Generally, a cost-plus-fixed-fee contract will not justify a reward for risk in excess of 0.5 percent, nor will a firm-fixed price contract justify a reward of less than the minimum on the weighted guidelines. Where proper contract-type selection has been made, the reward for risk, by contract type, will usually fall into the following percentage ranges which are applied to total recognized contract costs, exclusive for facilities capital cost of money:

(i) type of contract and percentage ranges for profit objectives developed for equipment and supply contracts:

Cost-Plus-Fixed Fee, 0 to 0.5%
Cost-Plus-Incentive Fee
  With Cost Incentives Only, 1 to 2%
  With Multiple Incentives, 1.5 to 3%
Fixed-Price-Incentive
  With Cost Incentives Only, 3 to 5%
  With Multiple Incentives, 4 to 6%
Prospective Price Redeterminable, 4 to 6%
Firm Fixed-Price, 6 to 8%

(ii) type of contract and percentage ranges for profit objectives developed for research and development contracts:

Cost-Plus-Fixed Fee, 0 to 0.5%
Cost-Plus-Incentive Fee
  With Cost Incentives Only, 1 to 2%
  With Multiple Incentives, 1.5 to 3%
Fixed-Price-Incentive
  With Cost Incentives Only, 2 to 4%
  With Multiple Incentives, 3 to 5%
Prospective Price Redeterminable, 3 to 5%
Firm Fixed-Price, 5 to 7%

(iii) type of contract and percentage ranges for profit objectives developed for contracts for services.

Cost-Plus-Fixed Fee, 0 to 0.5%
Cost-Plus-Incentive Fee, 1 to 2%
Fixed-Price-Incentive 2 to 3%
Firm Fixed-Price, 3 to 4%

(6) In assessing the selection and application of a profit objective percentage remember:

(i) These ranges may not be appropriate for all acquisitions. For instance, a fixed price incentive contract that is closely priced with a low ceiling price and high incentive share may be tantamount to a firm fixed price contract. In this situation, the contracting officer may determine that a basis exists for high confidence in the reasonableness of the estimate and that little opportunity exists for cost reduction without extraordinary efforts. On the other hand, a contract with a high ceiling and low incentive formula can be considered to contain cost-plus-incentive-fee contract features. In this situation, the contracting officer may determine that the Government is retaining much of the contract responsibility and that the risk assumed by the contractor is minimal. Similarly, if a cost-plus-incentive-fee contract includes an unlimited downward (negative) fee adjustment on cost control, it could be comparable to a fixed-price incentive contract. In such a pricing environment, the contracting officer may determine that the Government has transferred a greater amount of cost responsibility to the contractor than is typical under a normal cost-plus-incentive fee contract.

(ii) The acquisition may not obviously fit a specific category shown. For example, effort under a particular A-E contract may better fall into the category of R&D, rather than services. Judgement is required, therefore, in establishing the category and weights to be applied in a given case.

(iii) The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a contract form. It can cause risk to increase or decrease in terms of both cost and performance. This consideration shall be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation, as a result, may be below the range that would otherwise apply for the contract type being proposed. This situation will be found to exist only in a

few extraordinary situations under circumstances of (A) a follow-on production contract, in which a substantial portion of the total contract costs represents a single subcontract or a few subcontracts, and (B) the fullest incentive reward and penalty feature on cost performance having been passed by the prime contractor to the subcontractor. In an acquisition in which all of these circumstances are found to exist, a lower than usual profit weight may be applied to the aggregate of all recognized costs, including the subcontract portion. The contract risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontract costs (when there is no substantial transfer of the contractor's risk) since such action eventually can result in an undue or undesirable lessening of the amount of work let on subcontracts.

(iv) In making a contract cost risk evaluation in an acquisition that involves definitization of a letter contract, unpriced change orders, and unpriced orders under BOAs, consider the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable, the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances and not be just the portion of costs incurred, or percentage of work completed, prior to definitization.

(v) Time and material, labor hour, and overhaul contracts priced on a time and material basis shall be considered to be cost-plus-fixed-fee contracts for the purpose of establishing a profit weight in the evaluation of the contractor's assumption of contract cost risk.

(d) *Capital investment (facilities).* (1) This element relates to the consideration to be given in the profit objective in recognition of the investment risk associated with the facilities employed by the contractor. How the amount of facilities capital employed is measured is discussed in FPR 1–3.1301–4 and 1–3.1301–8. Five to twenty percent of the net book value of facilities capital allocated to the contract is the normal range of weight for this profit factor. The key factors that the contracting officer shall consider in evaluating this risk are:

(i) The overall cost effectiveness of the facilities employed;

(ii) Whether the facilities are general purpose or special purpose items;

(iii) The age of the facilities;

(iv) The relationship of the remaining writeoff life of the investment and the length of the program(s) or contract(s) on which the facilities are employed; and

(v) Special contract provisions that reduce the contractor's risk of recovery of facilities capital investment (termination-protection clauses, multiyear cancellation ceilings, etc.).

(2) To assist in evaluating new investment, the contracting officer should request the contractor to submit reasonable evidence that the new facilities are part of an approved investment plan and that achievable benefits to the Government will result from the investment. New industrial facilities and equipment shall receive maximum weight when they—

(i) Are to be acquired by the contractor primarily for Government and energy related business and effort;

(ii) Have a long service life;

(iii) Have a limited economic life due to limited alternative uses; and

(iv) Reduce the total life cycle cost of the products produced for, or services to, the Department of Energy.

To the extent that the new investment represents routine replacement of existing assets, a lesser weight shall be assigned.

(e) Independent research and development.

This factor rewards contractors in the following two ways:

(1) As a reward for the contractor's investment in a viable independent research and development program; considering, among other things, the program's quality, scope, and resources employed. The normal weight range for this factor is from 5 to 7 percent of allowable IR&D costs allocable to the prospective contract.

(2) As a reward for contractors who assume the extra risk of developing items with energy program applications on their own initiative with no direct Government assistance and little or no indirect Government assistance. Profit weights in the range of 0 to 20 percent of the *basic profit dollars* (total of profit dollars for Items IA thru E, § 9–3.808–50(f)) are normal for this factor. The weight selection is to be based on the amount of assistance provided by the Government through independent research and/or development expense allowance under previous Government contracts and the extent the contractor already has been compensated for risk assumption through prior sales of the identical item to the Government.

(f) *Participation in special programs.* (1) A composite percentage weight within the range of −5 percent to +5 percent of the *basic profit objective* (total of profit dollars for items IA thru E) may be assigned for this profit objective. This profit factor, which may apply to special circumstances or a particular acquisition, relates to rewards of outstanding achievement in contractor participation in the Government's small business, small disadvantaged business, labor surplus, energy conservation and other special programs. Participation that is rated as merely satisfactory shall be assigned a weight of zero, generally. Evidence of energetic support may justify a plus weight and poor support a negative weight.

(2) In assessing this factor, the contracting officer:

(i) Shall give favorable consideration to the contractor's policies and procedures that energetically support Government small business and small disadvantaged business subcontracting programs, pursuant to 9–1.710 & FPR 1–710. Any unusual effort that the contractor displays in subcontracting with small business or small disadvantaged business concerns, particularly for development-type work likely to result in later production opportunities, and the overall effectiveness of the contractor in subcontracting with and furnishing assistance to such concerns shall be considered. Conversely, failure or unwillingness on the part of the contractor to support Government small or small disadvantaged business policies shall be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(ii) Shall make a similar review and evaluation of the contractor's policies and procedures supporting the Government's labor surplus area program, pursuant to § 9–1.805. In particular, favorable consideration shall be given to a contractor who (A) makes a significant effort to help find jobs and provide training for the hardcore unemployed, or (B) promotes maximum subcontractor utilization of certified eligible concerns, as defined in FPR 1–1.801.

(iii) Shall give favorable consideration to the contractor's initiatives and accomplishments in the conservation of energy and in carrying out any other special Government programs.

(g) *Other considerations.* (1) Particular situations may justify consideration of a profit allowance in addition to those

specifically identified elsewhere in these guidelines. These situations shall be identified and the reason(s) for their use documented in the records of price negotiation. An assigned weight of −5 to +5 percent of the *basic profit objective* is the normal range for this profit factor depending on the circumstances of the particular acquisition. A zero weight designates a satisfactory or average effort.

(2) Examples of "other considerations" are described in the following subparagraphs.

(i) *Cost-control and other past accomplishments.* This factor allows additional profit opportunities to a prospective contractor that has previously demonstrated its ability to perform similar tasks effectively and economically. In addition, consideration should be given to (A) measures taken by the prospective contractor that result in productivity improvements and (B) other cost-reduction accomplishments that will benefit the Government contracts. Among other things consideration should be given to the contractor's efforts to explore additional production opportunities or to improve or develop new product, manufacturing or performance technologies to reduce production cost.

(ii) *Complexity of R&D or services assignment.* A weighting for the complexity of the R&D or services assignment will be considered when a contract, such as A–E contract, relates to a DOE project facility. The following complexity categories are to be used for the purpose of establishing the appropriate fee weight:

Class A—Manufacturing plants involving continuous closed processes or other complicated operations requiring a high degree of design control; nuclear reactors, power generation systems and facilities and atomic particle accelerators; complex laboratories or industrial units especially designed for processing, testing or handling highly radioactive materials; facilities to be used for research, development, experimental or demonstration purposes which involve advance or unique design considerations that are peculiar to the purposes for which the facility is built.

Class B—Normal manufacturing processes and assembly operations such as ore dressing, metal working plants and simple processing plants; power plants and accessory switching and transformer stations; water treatment plants; sewage disposal plants; hospitals and ordinary laboratories.

Class C—Permanent administrative and general service buildings, permanent housing, roads, railroads, grading, sewers, storm drains and water and power distribution systems.

Class D—Construction camps and facilities and other construction of a temporary nature.

(iii) *Operating capital.* This factor includes consideration of the level of the contractor's operating or working capital investment required for effective contract performance. This level will vary, depending on such circumstances as (A) the nature of the work and duration of the contract, (B) contract type and dollar magnitude, (C) the reimbursement or progress payment rate, (D) the contractor's financial management practices, and (E) the frequency of and time lag between billings and Government payments. Such circumstances should be taken into account in determining what profit adjustment, if any, is appropriate under this subfactor. When the contractor will invest relatively few dollars for operating capital purposes (because of cost reimbursement and progress payment rates, or when an advance payment method (such as a letter of credit) is used to finance the contractor, a negative adjustment may be in order.

(h) *Adjustment to follow-on contract for productivity/performance.* (1) One of the objectives for the DOE profit policy is to reduce costs needed to achieve national energy goals by incentivizing contractor investment in modern cost-reducing facilities and the other improvements in efficiency and performance. To the extent that costs serve as the basis for pricing (both cost and profit), success in reducing costs can serve in turn to reduce the magnitude of prespective profit dollars on follow-on contracts. For example, a cost-plus-award-fee contract may be awarded as the first of two or more contracts required for a major energy program. The incentive to increase productivity or performance and reduce cost under the first contract works against the contractor on any follow-on contracts because the reduced level of costs becomes a part of the basis for pricing subsequent contracts. In order to mitigate the relative loss of prospective profit dollars on a follow-on contract that occurs when costs are reduced under the predecessor contract or contracts due to productivity or performance gains, a special "Productivity/Performance Reward" may be included in the prenegotiation profit objective of a pending follow-on acquisition under certain circumstances.

(2) The "Productivity/Performance Award" may be applied when the following criteria are met:

(i) The pending acquisition is for a follow-on contract.

(ii) Reliable actual cost data relating to the predecessor contract or contracts is available to establish a fair and reasonable cost baseline.

(iii) Changes made in the configuration of the item being acquired or in the technical aspects of the services being performed are not likely to invalidate price comparability.

(3) The amount of productivity or performance reward for a given follow-on contract is based on the estimated cost reduction on the predecessor contract or contracts that can be attributed to productivity or performance gains. Set forth below are principles and procedures that apply to estimating cost reductions and calculating the productivity or performance reward:

(i) The contractor shall prepare and support the cost reduction estimate.

(ii) The overall contract cost decrease shall be based on estimated decreases measured at the unit cost level, or equivalent.

(iii) The lowest average unit cost or its equivalent (exclusive of profit) for a preceding performance period or production run shall serve as the unit cost baseline.

(iv) A technique shall be employed to determine that portion of the cost decrease attributable to productivity or performance gains as opposed to other factors such as the effects of quality differences between the base contract and the pending acquisition.

(v) When the parties agree that the estimated overall contract cost decrease is materially affected by price level differences between the base period and the current point in time, an economic price adjustment may be applied to the estimate.

(vi) The reward shall be calculated by multiplying the contract cost decrease due to productivity/performance gains by the base profit objective rate.

(vii) The degree of review and validation of the data supporting the reward calculation shall be commensurate with the materiality of this profit element in relation to the overall price objective.

(4) There may be several methods advanced, by both contracting officers and contactors, to quantify productivity/performance gains. Any technique may be acceptable, provided it takes into account equitably the principles and procedures listed above.

(i) Documentation and record of negotiation. Determination of the profit or fee objective, in accordance with 9–3.808–55, shall be fully documented. Since the profit objective is the contracting officer's pre-negotiation evaluation of the total estimated profit under the proposed contract, the amounts set forth for each category of cost will probably change in the course

of negotiation. Furthermore, the negotiated profit will probably vary from the profit objective, and from a detailed application of the weighted guidelines method to each element of the contractor's input to total performance as anticipated prior to negotiation. Since the profit objective is viewed as a whole rather than as its component parts, insignificant variations from the pre-negotiation profit objective, as a result of changes to the contractor's input to total performance need not be documented in detail. Conversely, significant deviations from the profit objective necessary to reach a final agreement on profit or fee shall be explained.

Change 10.4

Change 10.4 adds new coverage to the existing text of Subpart 9–3.9, "Subcontracting Policies and Procedures," in order to provide policy regarding determination of profit or fee objectives under negotiated subcontracts. The policy coincides with the provisions set forth in Change 10.3. Section 9–3.903–2 added to Subpart 9–3.9 to read as follows:

§ 9–3.903–2 Review and approval of subcontracts.

(d) For determining profit/fee objectives under negotiated subcontracts, the prime contractor may use a weighted guidelines or a structured approach that discriminates among different levels of investment if the acquisition would be subject to the weighted guidelines under a prime DOE contract. If the acquisition falls into one of the exceptions to the DOE weighted guidelines applications as cited in 9–3.808–51, the prime contractor may use other techniques to establish profit objectives.

Change 10.5

Change 10.5 adds new policy guidance to Subpart 9–4.59, "Cost Participation." The policy guidance covers the evaluation and valuation of in-kind contributions provided by a performing contractor or non-Federal third party as part of cost-participation requirements. Section 9–4.5907 is added to Subpart 9–4.59 to read as follows:

§ 9–4.5907 In-kind contributions.

(a) In-kind contributions represent noncash contributions provided by the performing contractor or a non-Federal third party who is participating with DOE in a co-sponsored project or contract. In-kind contributions may be in the form of personal property (equipment and supplies), real property (land and buildings) or services which are directly beneficial, specifically identifiable and necessary to performance of the project or program.

(b) In-kind contributions proposed to the DOE as part of a performer's cost participation must meet all of the following criteria before acceptance.

(1) Are verifiable from the performer's books and records, if performer donated;

(2) Are not included as contribution for any other Federal progam;

(3) Are necessary to effective and efficient accomplishment of project objectives;

(4) Are provided for types of charges that would otherwise be allowable under applicable Federal cost principles appropriate to the contractor's organization; and

(5) Are not paid for by the Federal Government under any contract, agreement or grant, unless specifically authorized by legislation.

(c) In-kind contributions accepted from a performer will be valued as set forth below provided the established values do not otherwise exceed fair market values.

(1) Where the Government receives title to donated land, buildings, equipment or supplies and the property is not fully consumed during performance of the co-sponsored project, the property's in-kind value should be established based on the performer's booked cost (i.e., acquisition cost less depreciation, if any) at the time of donation. In the event the booked costs reflect totally unrealistic values when compared to current market conditions, another appropriate value may be established if supported by an independent appraisal of the fair market value of the donated property or property in similar condition and circumstance.

(2) The value of any services or the use of personal or real property donated by a performer should be established, when necessary to do so, in accordance with generally accepted accounting policies and the appropriate Federal cost principles applicable to the performer's organization.

(d) Values established for in-kind contributions accepted from a non-Federal third party should be reasonable and shall not exceed the fair market value of the item at the time of donation. Specific requirements for selected in-kind items involving third party donors are as follows:

(1) *Donated Employee Services:* Employee services donated by a non-Federal third party shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and indirect costs) provided the donated services require use of the same skills for which the employee is normally paid. Otherwise, the rate of pay, for valuation purposes, shall be consistent with the rates paid for similar work in the labor market in which the performer competes for such skills.

(2) *Volunteer services:* Rates used to value volunteered personal services of professional, clerical, or other individuals should be consistent with those regular rates paid by the performer for similar work and be established in accordance with the procedures specified in paragraph (d)(1) of this section.

(3) *Property:* Values for personal or real property, or the use thereof, donated by a non-Federal third party shall be established, dependent upon the donor's intended disposition of the property upon project completion, as follows:

(i) When title is donated at no cost to the Government or the property will be fully consumed during project performance, a reasonable value not in excess of the fair market value of the donated property, or comparable property in similar condition, shall be established provided the fair market value of land or buildings is established by an independent appraisal.

(ii) When title is retained by the donor or acquired by the performer, reasonable usage values not in excess of the fair rental value of the donated property or comparable property shall be established provided the fair rental value of donated space is established by an independent appraisal.

Change 10.6

A new Subpart 9–4.60, "Acquisition, Use and Disposal of real estate," is being added to establish policies and procedures to be followed under cost-type contracts which requires contractors to acquire, use or dispose of real property or interest therein on behalf of the Department. Subpart 9–4.60 is added to Part 9–4 to read as follows:

Subpart 9–4.60—Acquisition, Use of Disposal of Real Estate

§ 9–4.6000 Scope of subpart.

This subpart addresses DOE policies and procedures to be applied in DOE cost-type contracts which include authorization to acquire, use, and dispose of real estate or interests therein for the performance of a contract or contracts; and, DOE assumes liability for, or otherwise will pay, or may be expected to pay, for the acquired real estate as a reimburseable contract cost.

§ 9-4.6001 General.

Ordinarily Government agencies are not directly concerned with the real estate management procedures for fixed price or cost-type contractors. However, special circumstances and situations arise under cost-type contracts when, in the performance of their contract or subcontract, the performer shall be required, or otherwise find it necessary, to acquire real estate or interests therein by:

(a) Purchase, on DOE's behalf or in their own name, with title eventually vesting in the Government.

(b) Lease, and DOE assumes liability for, or otherwise will pay for the obligation under the lease.

(c) Acquisition of temporary interest through easement, license or permit, and DOE funds the cost of the temporary interest.

§ 9-4.6002 Policy.

It is the policy of the Department of Energy that when the real estate acquisitions described in 9-4.6001 are made, or are expected to be made, the following policies and procedures shall be applied to such acquisitions:

(a) Real estate acquisitions shall be mission essential; effectively, economically, and efficiently managed and utilized; and disposed of promptly, when not needed;

(b) Acquisitions shall be justified, with documentation which describes the need for the acquisition, general requirements, cost, acquisition method to be used, site investigation reports, site recommended for selection, and property appraisal reports; and

(c) Acquisition by lease, in addition to the requirements in paragraphs (a) and (b) of this section:

(1) Shall not exceed a one-year term if funded by one-year appropriations.

(2) May exceed a one-year term, when the lease is for special purpose space funded by no-year appropriations and approved by the Department.

(3) Shall contain an appropriate cancellation clause which limits the Government's obligation to no more than the amount of rent to the earliest cancellation date plus a reasonable cancellation payment.

(4) Shall be consistent with Government laws and regulations applicable to real estate management.

§ 9-4.6003 Application.

(a) The Office of Project and Facilities Management is the Headquarters contact point for Departmental policies and procedures governing the acquisition, use, and disposal of the Department's real estate or interests therein. Real estate interests include purchases, leases, easements, permits and licenses.

(b) It is the Contracting Officer's responsibility to coordinate with the Office of Project and Facilities Management when contractor real estate acquisitions meet the criteria set forth in 9-4.6001 of this subpart in order to assure that appropriate procedures are followed by the contractor.

(c) The following clause will be included in contracts or modifications where contractors acquisitions are expected to meet the criteria specified in § 9-4.6001 of this subpart:

Acquisition of Real Property

(a) Notwithstanding any other provision of the contract, the prior approval of the contracting officer shall be obtained when, in performance of this contract, the contractor acquires or proposes to acquire use of real property by:

(1) Purchase, on the Government's behalf or in the contractor's own name, with title eventually vesting in the Government.

(2) Lease, and the Government assumes liability for, or will otherwise pay for the obligation under the lease as a reimbursable contract cost.

(3) Acquisition of temporary interest through easement, license or permit, and the Government funds the entire cost of the temporary interest.

(b) Justification of and execution of any real property acquisitions shall be in accordance and compliance with directions provided by the Contracting Officer.

(c) The substance of this clause, including this paragraph (c), shall be included in any subcontract occasioned by this contract under which property described in paragraph (a) of this clause shall be acquired.

§ 9-4.6004 Competition.

(a) *General.* It is incumbent upon the Contracting Officer to insure that genuine competition prevails and that adequate consideration flows to the Government whenever and however Government property is to be provided a contractor for contract performance. Willingness and ability to provide all resources necessary for contract performance shall be an important factor in evaluating competitive contractors.

(b) *Solicitation documents.* Contracting Officers shall make certain that solicitation documents:

(1) Require prospective contractors to specify additional facilities and equipment which must be acquired for contract performance, the estimated cost of individual items, and whether acquisition of such property will be financed by the prospective contractor or whether the Government will be requested to provide the required items.

(2) Explain whether it is the Government's intention to provide property, when it is known prior to solicitation that contract performance will require additional facilities or equipment.

(3) Require prospective contractors to:

(i) List items (including dollar value) of Government-owned property in their possession which they propose to use in performance of the prospective contract;

(ii) Identify the contract or other instrument under which the property is accountable; and

(iii) Present written permission to use such property in the performance of the prospective DOE contract from the Government Contracting Officer having cognizance of the property.

(4) Include a statement that the user will assume all costs related to making the property available for use (e.g., transportation, installation, rehabilitation, modification, etc.), unless, the Government is to assume such costs.

(5) Include a statement which explains the consideration to be given Government property during evaluation of bids and proposals. This is to insure that all prospective bidders and offerors understand that Government property will be an important consideration in evaluating their bids and proposals.

Change 10.7

A new Section 9-50.508, "Real Estate Management," is added to make the provisions of 9-4.60, being added by Change 10.6, applicable to operating and on-site service contracts. Sections 9-50.508 and 9-50.508-1 are added to Subpart 9-50.5 to read as follows:

§ 9-50.508 Real Estate Management.

§ 9-50.508-1 Scope.

The provisions of Subpart 9-4.60 for acquisition, use and disposal of real estate, or interests therein, shall be followed for operating and on-site service contracts.

[FR Doc. 83-7518 Filed 3-24-83; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3900, 3920 and 3930

Extension of the Public Comment Period and Rescheduling of the Regional Oil Shale Team Meeting for the Proposed Federal Oil Shale Regulations and the Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of comment period on proposed rule and rescheduling of meeting.

SUMMARY: By Federal Register publication on February 11, 1983, (48 FR 6510) the Bureau of Land Management (BLM) proposed regulations for the management of federally-owned oil shale resources; announced the availability of a draft programmatic EIS of these proposed regulations (48 FR 6410), set a date of April 12 1983, for the close of the public comment period on these two documents; and announced a ROST meeting and public hearing (48 FR 6411) to receive comments on these two documents. Since then, the BLM has been requested by the public, local government, and State government to extend the public comment period. In view of the importance of the Federal oil shale management program and the BLM's committment to maximize public involvement in the oil shale program, the Bureau is extending the close of the public comment period on both documents until May 12, 1983. To this end, the Bureau is also rescheduling the ROST meeting and public hearing from March 29, 1983, to April 26, 1983. The location for the ROST meeting and public hearing will remain at the Howard Johnson's, I–90 and Horizon Drive, Grand Junction, Colorado. The ROST meeting will commence at 8:30 a.m. and will serve as a public discussion of the major issues of the proposed regulations and draft EIS. A public hearing to receive specific comments on the regulations and draft statement will commence at 2:00 p.m. at the same location.

DATES: The close of the public comment period for the proposed Federal oil shale regulations and the associated draft environmental impact statement (EIS) is extended to May 12, 1983. The Regional Oil Shale Team (ROST) meeting and associated hearing on these proposed regulations and draft EIS is rescheduled from March 29, 1983, to April 26, 1983.

ADDRESSES: Written comments on the proposed regulations must be received at the following address by May 12, 1983, in order to be considered during promulgation of the final regulations: Director (140), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

Written comments on the draft EIS must be received at the following address by May 12, 1983, in order to be considered during preparation of the final EIS: ATTN: Mr. Jack Edwards, Environmental Impact Statement Office, 555 Zang Street—First Floor, Denver, Colorado 80228.

FOR FURTHER INFORMATION CONTACT:

Donald Brabson (202) 343–3258

or

Robert Leopold (303) 837–5435.

Dated: March 23, 1983.

Robert F. Burford,

Director.

[FR Doc. 83–7942 Filed 3–24–83; 11:30 am]

BILLING CODE 4310–84–M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[Docket No. 83–18]

Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This amends FMC tariff filing rules to permit conferences and rate agreements to file, on behalf of member line controlled carriers, lower rates on less than 30 days' notice to meet the independent action rates of member line non-controlled carriers and to meet the actions taken by member line non-controlled carriers on open rated commodities. The rule would not apply to conference-controlled carrier rates which are lower than rates of non-controlled conference members.

DATES: Comments due, on or before April 25, 1983.

ADDRESSES: Comments (original and 15 copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: James A. Warner, Chief, Office of Foreign Tariffs, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5796.

SUPPLEMENTARY INFORMATION: Pursuant to section 18(c) of the shipping Act, 1916 (46 U.S.C. 817(c)), the Commission has established tariff filing requirements applicable to "controlled carriers" operating in the foreign commerce of the United States.[1] These are contained in 46 CFR Part 536, the Commission's regulations governing the publishing and filing of tariffs by common carriers by water in the foreign commerce of the United States.

It appears that certain regulatory requirements imposed on controlled carrier members of a conference or rate agreement could adversely affect such carriers in a manner not intended by Congress when it enacted the Ocean Shipping Act of 1978, which added section 18(c) to the Shipping Act, 1916. The Commission therefore proposes to amend its tariff filing rules to permit controlled carriers to be more competitive within a conference or rate agreement which permits open and independent rate actions.

First, the Commission proposes to amend 46 CFR 536.6(n) to permit conferences or rate agreements to file reduced rates for controlled carrier members on open-rated commodities at or above the level set by any non-controlled carrier member of the conference or rate agreement without being subject to the 30 days' notice requirement for reductions contained in § 536.10(a)(3).

It is also proposed that 46 CFR 536.10(a)(3) be amended to permit a conference or rate agreement, where the basic agreement provides for independent action, to file on behalf of its controlled carrier members, reduced independent action rates on less than 30 days' notice, subject to the requirements of the basic agreement, when the purpose of the filing is to meet independent action rates of non-controlled carrier members. Whenever such independent action rates are filed on less than 30 days' notice they may be filed at a level no lower than the independently filed rates of non-controlled members.

The Commission finds that the proposed amendments to its rules are exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601). Section 601(2) of the Act excepts from its coverage any "rule of particular applicability relating to rates * * * or practices relating to such rates * * *." As the proposed amendments clearly relate to rates and rate practices, the Regulatory Flexibility Act requirements are inapplicable.

List of Subjects in 46 CFR Part 536

Rates, Maritime carriers.

PART 536—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553 and sections 18(c) and 43 of the Shipping Act, 1916 (46 U.S.C. 817(c) and 841a), the Federal Maritime Commission proposes to amend 46 CFR Part 536 by:

§536.6 [Amended]

1. The addition of a new sentence at the end of § 536.6(n), reads as follows:

* * * * *

* * * *Provided, however,* That conferences or rate agreements may file reduced rates of controlled carrier members for open-rated commodities at or above the level set by any non-controlled carrier member of the

[1] A "controlled carrier" is one " * * * which is, or whose operating assets are, directly or indirectly owned or controlled by the government under whose registry the vessels of the controlled carrier operate." (46 CFR 536.2(f)).

conference or rate agreement without being subject to the 30 days' notice requirement of § 536.10(a)(3).

§ 536.10 [Amended]

2. The addition of a new sentence at the end of § 536.10(a)(3) reads as follows:

* * * * *

* * * *Provided further,* that conferences or rate agreements whose basic agreement provide for independent action, may file on behalf of their controlled carrier members, lower independent action rates on less than 30 days' notice, subject to the requirements of the basic agreement, when the purpose of these filings is to meet the independent action rates of a non-controlled member carriers. Whenever such independent action rates are filed on less than 30 days' notice they may be filed at no lower level than the independently filed rates of non-controlled member carriers.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-7734 Filed 3-24-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Ocean and Atmospheric Administration

50 CFR Part 630

Swordfish Fishery Management Plan; Public Hearings

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

ACTION: Change of public hearing.

SUMMARY: This document changes an announcement of public hearings published March 17, 1983 (48 FR 11304), the Caribbean Fishery Management Council had changed the location and time of its April 8 swordfish public hearing.

FOR FURTHER INFORMATION CONTACT: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, (803) 571–4366.

The new location for the April 8th hearing is: Department of Marine Science, University of Puerto Rico, La Parguera, La Jas, PR, 2:00 p.m.

Dated: March 21, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-7794 Filed 3-24-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 59
Friday, March 25, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on April 7, 1983, at 7:30 p.m., a public information meeting will be held at the Your Home Library, Main Street, Johnson City, New York.

This meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed demolition of the Charles F. Johnson Pool, an undertaking assisted by the National Park Service, Department of the Interior that will adversely affect this property eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on the eligible National Register property, and alternative courses of action that could avoid, mitigate, or minimize adverse effects on this property.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by the National Park Service, Department of the Interior.

III. A statement by the New York State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking and possible alternatives.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, DC 20005, telephone No. 202–254–3495, Attention: Kate M. Perry.

Dated: March 22, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-7729 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee for Biological Nitrogen Fixation; 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 Nitrogen Fixation of the Technical Advisory Committee for Science and Education Research Grants Program.

Date and time: May 23, 24, and 25, 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: Iris F. Martin, Associate Program Manager, Biological Nitrogen Fixation Program, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209 Telephone: (703) 235–2648.

Purpose of subcommittee: To provide advice and recommendation concerning support for research in the Biological Nitrogen Fixation 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.

E. L. Kendrick,

Acting Deputy Assistant Secretary, Science and Education.

[FR Doc. 83-7731 Filed 3-24-83; 8:45 am]

BILLING CODE 3410-03-M

Technical Advisory Committee for Science and Education Research Grants Program; Subcommittee on Photosynthesis; 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 Photosynthesis of the Technical Advisory Committee for Science and Education Research Grants Program.

Date and time: May 17, 18, and 19, 1983, Tuesday—9:00 a.m. to 5:30 p.m.; Wednesday—9:00 a.m. to 5:30 p.m.; Thursday—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: Olga v.H. Owens, Associate Program Manager, Photosynthesis Program, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209, Telephone: (703) 235–2640.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Photosynthesis 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. 83-7752 Filed 3-24-83; 8:45 am]

BILLING CODE 3410-03-M

Soil Conservation Service

Beaver Meadows Farm Irrigation RC&D Measure, Wyoming; 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 Beaver Meadows Farm Irrigation RC&D Measure, Sweetwater County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Frank S. Dickson State Conservationist, Soil Conservation Service, 100 East "B" Street, Casper, Wyoming, 82601, telephone 307-261-5201.

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, Frank S. Dickson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns plans for the enlargement of an irrigation storage reservoir. The planned works of improvement include installation of a principal spillway and irrigation drawdown unit, relocation of the emergency spillway, enlargement of the existing dam, and constructing a water control structure in the outlet canal below the dam.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Frank S. Dickson.

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)

Robert W. Cobb,

Deputy State Conservationist.

March 14, 1983.

[FR Doc. 83-7804 Filed 3-23-83; 8:45 am]

BILLING CODE 3410-16-M

Lonnie Houser Subdivision Land Drainage RC&D Measure, Indiana

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, 5610 Crawfordsville Road, Indianapolis, Indiana, 46224, telephone (317) 248-4350.

Notice: 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 Lonnie Houser Subdivision Land Drainage RC&D Measure, Harrison County, Indiana.

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, Robert L. Eddleman, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for land drainage. The planned works of improvement include constructing a waterway approximately 1.4 acres in size and one grade stabilization structure. Approximately 1.4 acres will be seeded and fertilized following construction.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert L. Eddleman. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

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. 10.904, Watershed Protection and Flood Prevention 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)

Robert L. Eddleman,

State Conservationist.

[FR Doc. 83-7800 Filed 3-23-83; 8:45 am]

BILLING CODE 3410-16-M

Intent to Deauthorize Federal Funding; Winters Creek Watershed, Nebraska

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines [7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Winters Creek Watershed project, Scotts Bluff and Sioux Counties, Nebraska.

FOR FURTHER INFORMATION CONTACT: Sherman L. Lewis, State Conservationist, Soil Conservation Service, Federal Building, Room 345, 100 Centennial Mall N., Box 82502, Lincoln, NE 68501, telephone 402/471-5300.

SUPPLEMENTARY INFORMATION: A determination has been made by Sherman L. Lewis that the proposed works of improvement for the Winters Creek Watershed project will not be installed. There is no opposition to deauthorization of Federal funding for the project. Information regarding this determination may be obtained from Sherman L. Lewis, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. 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: March 16, 1983.

Sherman L. Lewis,

State Conservationist.

[FR Doc. 83-7598 Filed 3-23-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Sodium Nitrate From Chile; Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Antidumping duty order.

SUMMARY: In separate investigations, the U.S. Department of Commerce ("the Department") and the U.S. International Trade Commission ("ITC") have determined that sodium nitrate from Chile is being sold at less than fair value and that sales of industrial grade sodium nitrate from Chile are materially injuring, or threatening to materially injure, a U.S. industry, while sales of agricultural grade sodium nitrate from Chile are not materially injuring, or threatening to materially injure, a U.S. industry. Therefore, all unappraised entries, or warehouse withdrawals, for consumption of industrial grade sodium nitrate made on or after November 15, 1982, the date on which the Department published its "Suspension of Liquidation" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register. The suspension of liquidation for all unappraised entries, or warehouse withdrawals, for consumption of agriculatural grade sodium nitrate will be terminated. Any bond or other security will be released and any cash deposit applicable to agricultrual grade sodium nitrate will be refunded.

EFFECTIVE DATE: March 25, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION: For purposes of this investigation, agricultural grade sodium nitrate is less than 98 percent pure by weight and industrial grade is 98 percent pure by weight. The moisture content, when measuring purity, is no more than 15 parts in 10 thousand. Both the agricultural and the industrial grade are currently classified under item 480.25 of the Tariff Schedules of the United States (TSUSA). Under item 480.25 of the TSUSA, sodium nitrate is normally free of import duty.

In accordance with section 733 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673b), on November 15, 1982, the Department published its preliminary determination that there was reason to believe or suspect that sodium nitrate from Chile was being sold at less than fair value (47 FR 51460). On January 28, 1983, the Department published its final determination that these imports were being sold at less than fair value (48 FR 4013). This determination covered both grades of sodium nitrate from Chile, although different margins were applicable to each of the grades.

On March 10, 1983, in accordance with section 735(b) of the Act (19 U.S.C. 1673(b)), the ITC determined and notified the Department that such importations are materially injuring, or threatening to materially injure, a U.S. industry with respect to industrial grade sodium nitrate, but not with respect to the agricultural grade sodium nitrate.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs U.S. Customs officers to assess antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price for all entries of industrial grade sodium nitrate from Chile. This antidumping duty will be assessed on all industrial grade sodium nitrate entered, or withdrawn from warehouse, for consumption on or after November 15, 1982, the date on which the Department published its "Suspension of Liquidation" notice in the Federal Register, and on all future entries of said merchandise. The suspension of liquidation for all unappraised entries, or warehouse withdrawals, for consumption of agricultural grade sodium nitrate made on or after November 15, 1982, will be terminated. Any bond or other security will be released and any cash deposit applicable to agricultural grade sodium nitrate will be refunded.

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit of estimated antidumping duties equal to $39.08 per short ton for industrial grade sodium nitrate.

This determination constitutes an antidumping duty order with respect to industrial grade sodium nitrate from Chile, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). The Department intends to conduct an administrative review within twelve months of publication of this order, as provided in section 751 of the Act (19 U.S.C. 1675).

We have deleted from the Commerce Regulations, Annex 1 to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Important Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Dated: March 22, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-7748 Filed 3-24-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Workshop for Local Area Network Implementors of the ISO/NBS Transport Class 4 Protocol

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces the second two-day workshop to continue discussing implementations for local area networks of the Transport Class 4 Protocol of the International Organization for Standardization according to the NBS design specification. The workship will be held on May 5 and 6, 1983, at the Marriott Hotel, 620 Lakeforest Blvd., Gaithersburg, Maryland, (301) 977-8900.

The workshop, geared specifically to the needs of local area networking vendors, will focus on Class 4 Transport techniques and implementation

strategies leading to a multi-vendor protocol demonstration in 1984.

Attendance at the workshop is limited due to space requirements and the size of the conference facility; therefore, registration is on a first come, first served basis with a strict limitation of two participants per company. A nominal registration fee will be charged for attending the workshop. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshop.

To register, companies should send a request on company letterhead to: LAN/TRANSPORT WORKSHOP, Atten: Robert Rosenthal, National Bureau of Standards, Building 225, Room B-226, Washington, D.C. 20234.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant. Registration requests must be post marked by April 20, 1983. An NBS representative will confirm workshop registration reservations by telephone. For additional information, contact Robert Rosenthal (301) 921-3516.

Dated: March 21, 1983.

Ernest Ambler,

Director.

[FR Doc. 83-7707 Filed 3-24-83; 8:45 am]

BILLING CODE 3510-CN-M

COMMODITY FUTURES TRADING COMMISSION

Registered Futures Associations; Exchange-Traded Commodity Options; Commission Approval of Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Approval of Registered Futures Association Rules.

SUMMARY: The Commission is publishing this Notice in order to inform the public that the Commission has approved rules of the National Futures Association ("NFA") a registered futures association, by which NFA will regulate the purchase and sale of exchange-traded commodity option contracts by its members. Under Commission regulations governing the purchase and sale of exchange-traded commodity options, only a Futures Commission Merchant ("FCM") which is a member of the particular exchange on which the option it is purchasing or selling is traded may solicit or accept option orders, unless the FCM is a member of a futures association registered by the Commission which has adopted rules approved by the Commission and which has determined to provide for regulation of the commodity option related activity of its members in a manner equivalent to that required of contract markets under Commission regulations. Commission approval of NFA's compliance rules governing options transactions of NFA members will thus allow NFA members which are not members of a contract market to solicit and accept orders for the purchase and sale of exchange-traded commodity options, or to supervise persons so engaged.

EFFECTIVE DATE: March 25, 1983.

FOR FURTHER INFORMATION CONTACT: Karen Matteson, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: Commission regulation 33.3(b)(1) prohibits any person from soliciting or accepting orders for the purchase or sale of any commodity option, or supervising any person so engaged, unless the person is registered as an FCM under the Commodity Exchange Act ("Act") and is either a member of the contract market upon which the option is traded or a member of a futures association registered by the Commission prusuant to section 17 of the Act which has adopted rules which the Commission has approved pursuant to section 17(j) of the Act, and which has determined to provide for the regulation of commodity option related activity of its members in a manner equivalent to that required of contract markets under Commission regulations.

NFA has submitted, and the Commission has approved, pursuant to section 17(j) of the Act, NFA Compliance Rules 2-15 through 2-21, which provide for NFA's regulation of its FCM members engaged in the transactions involving exchange-traded commodity options. Rules 2-15 through 2-20 set forth requirements governing sales practices of FCMs transacting options business, and conform to the requirements imposed upon contract markets pursuant to Part 33 of the Commission's regulations,[1] as set forth in the table below:

Commission regulation	Requirement	NFA rule
33.4(a)(2)	Full payment of premiums	2-17.
33.4(b)(2)	Deep-out-of-the-money options	2-15(c).
33.4(b)(3)	Exercise notification to grantor	2-15(b).
33.4(b)(4)	Customer complaints; records	2-18.
33.4(b)(5)	FCM supervisory procedures	2-15(a).
33.4(b)(6)	Notice of disciplinary actions	2-19(a).
33.4(b)(7)	Enforcement of disclosure requirements.	2-19(b).
33.4(b)(8)	Submission of promotional material.	2-19(c).
33.4(b)(9)	Discretionary accounts	2-20.
33.4(b)(10)	Sales communications	2-16.

In addition, NFA submitted, and the Commission approved, amendments to NFA Compliance Rule 2-2 which the Commission had stated were necessary prior to its granting authority to NFA to exercise any of the Commission's registration functions or to regulate participants in any exchange-traded commodity options program.[2] These amendments will eliminate the words "willful" and "material" from Rule 2-2, which governs fraudulent transactions, where including these terms in the rule results in creation of a standard which renders it more difficult to establish violations of the NFA rule than the corresponding section of the Act. As the Commission noted in its Order, a "willful" standard has been interpreted to include cases in which the person charged with a violation intentionally committed the act constituting the violation, whether or not the person knew he or she was violating the Act, a Commission regulation, or an NFA rule. The Commission understands that NFA will interpret the "willful" standard of 2-2(c) in this manner.[3]

Finally, NFA has submitted two Delegation Plans under 17 CFR 1.52(c) pursuant to which NFA will perform financial and sales practice audits of NFA members dealing in exchange-traded commodity options which are not members of any contract market.[4] The Commission has therefore concluded that NFA has determined to provide for the regulation of the commodity option related activities of its members in a manner equivalent to that required of contract markets by Commission regulations. Thus, those FCMs which are

[1] NFA Compliance Rule 2-21, which has also been approved by the Commission, requires NFA members desiring to trade options to submit certain materials to NFA ten days prior to beginning to transact options-related business.

[2] Order Granting Registration and Approving Rules of NFA at 64 (September 22, 1981). These rule changes were necessary in order for NFA to be in compliance with 17 CFR 170.1, which requires that a registered futures association ensure that its members adhere to regulatory requirements at least as stringent as those imposed by the Commission.

[3] *Id.* at 63 n. 183.

[4] These Plans have been published for comment by the Commission, 48 FR 9682 (March 8, 1983). The Plans will ensure that all FCMs will be audited for compliance with Commission, contract market, and NFA requirements governing exchange-traded options by either a contract market or NFA.

members of NFA are now authorized under the Commission's options pilot program to solicit or accept options orders, or supervise persons so engaged, pursuant to 17 CFR 33.3(b)(1)(i)(B).

Issued in Washington, D.C., on March 21, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-7750 Filed 3-24-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 15, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on Engineering and Services' Role in the Employment of Air Power will meet at Greenham Common AB and Upper Heyford AB, England and Ramstien AB, Germany on April 18–22, 1983. The purpose of the meetings will be to become acquainted with the operational roles and associated problems of engineering and services support of tactical weapons systems in the European environment. The meetings will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-7790 Filed 3-24-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense 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). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

ROTC Technical Skill Enrollment Survey.

The survey purpose is to identify factors that affect ROTC participattion (enrollment and retention), which particular emphasis placed on students who plan to enroll or are currently enrolled in Engineering and Nursing curricula.

High School, College and ROTC Students: 1200 responses, 804 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG-OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

March 22, 1983.

[FR Doc. 83-7787 Filed 3-24-83; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board Task Force on Electronic Warfare (Future Systems Subgroup); Advisory Committee Meeting

The Future Systems Subgroup of the Defense Science Board Task Force on Electronic Warfare will meet in closed session on 17–18 May 1983 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 17–18 May 1983, the Task Force will discuss the application of technology to future systems designed to improve US Electronic Warfare capabilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: March 22, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-7753 Filed 3-24-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Transition of Weapon Systems From Development to Production; Postponement of Advisory Committee Meeting

The meeting of the Defense Science Board Task Force on Transition of Weapon Systems from Development to Production scheduled for 23 March 1983 as published in the **Federal Register** (Vol. 48, No. 39, Friday, February 25, 1983, FR Doc. 83–4860) has been postponed to 26 April 1983. In all other respects the original notice remains the same.

Dated: March 22, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83-7754 Filed 3-24-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Fire Support for Amphibious Warfare; Advisory Committee Meeting

The Defense Science Board Task Force on Fire Support for Amphibious Warfare will meet in closed session on April 10–11, 1983 in San Diego and Twenty-Nine Palms, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on April 10–11, 1983 the Task Force will consider the basic requirements for fire support during amphibious warfare operations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly

these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

March 22, 1983.

[FR Doc. 83-7788 Filed 3-24-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA83-1-20-006]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

March 21, 1983.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on March 4, 1983, tendered for filing Second Substitute 60th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that Second Substitute 60th Revised Sheet No. 10 is being filed to track substitute rates filed by its pipeline supplier, Texas Eastern Transmission Corporation.

Algonquin Gas proposes the effective date of Second Substitute 60th Revised Sheet No. 10 to be March 1, 1983.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7775 Filed 3-24-83; 8:45 am]

BILLING CODE 36717-01-M

[Docket Nos. RP83-59-000 and TA83-2-13-000 (PGA83-2)]

Gas Gathering Corp.; Proposed Change in Rates Under New Gas Adjustment Clause Provision

March 21, 1983.

Take notice that on March 4, 1983, Gas Gathering Corporation (GGC) tendered for filing proposed changes in its FERC Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under GGC's New Gas Adjustment Clause provision which was also filed on March 1, 1983, to become effective on April 1, 1983. The proposed changes would increase the rate charged Transco by 9.996152 cents per MMBtu from those rates presently in effect. The proposed changes are proposed to be made effective April 1, 1983, through June 30, 1983. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to reduce the balance of its Unrecovered Purchased Gas Cost through June 30, 1983.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretaty.

[FR Doc. 83-7777 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT83-12-000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

March 21, 1983.

Take notice that on March 4, 1983, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. Natural states that the proposed changes will make effective:

Seventeenth Revised Sheet Nos. 301 and 302
Eighteenth Revised Sheet No. 303
Seventeenth Revised Sheet Nos. 304 and 305
Fifth Revised Sheet Nos. 306 through 308
Fourth Revised Sheet No. 309.

Natural states the purpose of this filing is to set out Buyer's quantity entitlements under Section 22 of the General Terms and Conditions of its FERC Gas Tariff for the service year April 1, 1983 through March 31, 1984.

Copies of this filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before March 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7779 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-163-000 and ER83-195-000]

Northern States Power Company (Minnesota); Filing

March 22, 1983.

The filing Company submits the following:

Take notice that on March 8, 1983, Northern States Power (Minnesota) ("Company") filed its response to the Commission's deficiency letter dated January 6, 1983 for the above referenced dockets. A subsequent Commission letter, dated February 4, 1983, extended the time in which to comply to March 7, 1983.

Pursuant to the above, Company's notices of filing should now read as follows:

In Docket No. ER83-163-000, the filing Company submits the following:

Take notice that Northern States Power Company (NSP) on November 29, 1982, as amended on March 8, 1983, tendered for filing Supplement No. 8

dated November 15, 1982 to the Twin Cities-Iowa St. Louis 345 kV Interconnection Coordinating Agreement dated January 7, 1965 between Interstate Power Company, Iowa Electric Light and Power Company, Iowa-Illinois Gas and Electric Company, Iowa Public Service Company, Iowa Southern Utilities Company, Northern States Power Company, and Union Electric Company.

NSP states that Supplement No. 8 provides for an increase in the capacity charge for Short-Term Power and System Participation Power.

Copies of this filing have been mailed to the appropriate state public utility commissions.

In Docket No. ER83-195-000, the filing Company submits the following:

Take notice that on December 16, 1982, as amended on March 8, 1983, Northern States Power Company (NSP) tendered for filing Supplement No. 4 dated December 1, 1982 to the Twin Cities-Iowa-Omaha-Kansas City 345 kV Interconnection Coordinating Agreement executed with Interstate Power Company, Iowa Public Service Company, Omaha Public Power District, St. Joseph Light & Power Company, and Kansas City Power & Light Company.

NSP states that Supplement No. 4 increases the charges for Short-Term Power and System Participation Power.

NSP requests an effective date of January 15, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 4, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7760 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1962]

Pacific Gas & Electric Co.; Issuance of Annual License

March 22, 1983.

On September 28, 1979, Pacific Gas and Electric Co. ("PG&E"), Licensee for the Rock Creek-Cresta Project No. 1962 filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder. Project No. 1962 is located on the North Fork Feather River in Plumas, Butte, Yuba and Sutter Counties, California.

The license for Project No. 1962 was issued effective June 17, 1947, for a period ending September 30, 1982. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to PG&E.

Take notice that an annual license is issued to PG&E for the period effective October 1, 1982 to September 30, 1983, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Rock Creek-Cresta Project No. 1962, subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before September 30, 1983, a new annual license will be issued each year thereafter, effective October 1 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7781 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-76-001]

Pacific Power & Light Co.; Amended Application

March 22, 1983.

Take notice that on March 10, 1983, Pacific Power & Light Company (Pacific) filed an amendment to its application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order (1) authorizing it to issue and sell not more than 6,175,000 shares of its common stock by September 1, 1983[1], and (2) exempting the issuance from competitive bidding requirements to 18 CFR 34.2(b)(2).

Any person desiring to be heard or to make any protest with reference to this revised application should, on or before April 4, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with 18 CFR 385.211 or 385.214, respectively. The amended application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7782 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[1] Pacific's original application requested authority to issue not more than 5,000,000 shares of common stock in one or more offerings until March 9, 1983. Of the 5,000,000 shares, 3,175,000 were issued and sold on December 8, 1982 in the initial offering in this matter. Any second offering in the matter could not exceed 3,000,000 additional shares of common stock under the revised authority requested.

[Docket No. TA83-2-40-000]

Raton Natural Gas Co.; Change in Rates

March 21, 1983.

Take notice that on March 4, 1983, Raton Natural Gas Company (Raton) tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Twenty-ninth Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is April 1, 1983.

Raton states that the instant notice of change in rates is occasioned solely for decrease in the cost of gas purchased from Colorado Interstate Gas Company (CIG). The tracking of CIG Gas Cost decrease results in decrease in Demand Rate from $3.73 to $2.68 and decrease in Commodity Rate from 443.10 cents to 418.92 cents per Mcf. The annual revenue decrease, by reason of the tracking, amounts to $235,689.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7783 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2039-000]

Louis H. Roddis, Jr.; Application

March 22, 1983.

The filing individual submits the following:

Take notice that on March 17, 1983, Louis H. Roddis, Jr. filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, The Detroit Edison Company
Director, Gould, Inc.
Director, Research-Cottrell

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before April 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for pulic inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7778 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP74-41-021]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

March 21, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on March 4, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the following sheets:

Fourth Revised Volume No. 1

Revised Sixty-fourth Revised Sheet No. 14
Revised Sixty-fourth Revised Sheet No. 14A
Revised Sixty-fourth Revised Sheet No. 14B
Revised Sixty-fourth Revised Sheet No. 14C
Revised Sixty-fourth Revised Sheet No. 14D

Original Volume No. 2

Revised Thirteenth Revised Sheet No. 235
Revised Ninth Revised Sheet No. 241
Second Revised Thirteenth Revised Sheet No. 322
Second Revised Sheet No. 688
Second Revised Second Revised Sheet No. 895
Second Revised Second Revised Sheet No. 896
Revised First Revised Sheet No. 949
Revised First Revised Sheet No. 957
Second Revised First Revised Sheet No. 970
Second Revised First Revised Sheet No. 971

The above sheets are being issued effective February 15, 1983 to implement the Commission's ORDER AFFIRMING INITIAL DECISION issued on said date in Docket No. RP74-41-000 (Remand). Such order affirmed the Administrative Law Judge's finding that the *Seaboard* formula, which classifies the fixed cost associated with transmission and storage facilities on Texas Eastern's system equally between the demand component and the commodity component of rates, should be used on Texas Eatern's system for the purpose of setting just and reasonable rates.

The above tariff sheets in Fourth Revised Volume No. 1 reflect the application of the *Seaboard* formula to the rates contained on Second Substitute Sixty-fourth Revised Sheet No. 14 which were accepted for filing and suspended to become effective February 1, 1983, subject to refund and certain other conditions by Commission order issued January 31, 1983 in Docket No. TA83-1-17-003. Pursuant to the January 31, 1983 order Texas Eastern has filed modifications to such accepted tariff sheets on February 15, 1983 and March 1, 1983. These modifications filings are currently before the Commission for approval in substitution for the tariff sheets accepted effective February 1, 1983 by the Commission's Januaray 31, 1983 order.

Therefore to reflect the February 15, 1983 and the March 1, 1983 modifications, Texas Eastern therewith submits for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, six copies of each of the following sheets requested to become effective February 15, 1983 in substitution for the above tariff sheets in Fourth Revised Volume No. 1:

Substitute Revised Sixty-fourth Revised Sheet No. 14
Substitute Revised Sixty-fourth Revised Sheet No. 14A
Substitute Revised Sixty-fourth Revised Sheet No. 14B
Substitute Revised Sixty-fourth Revised Sheet No. 14C
Substitute Revised Sixty-fourth Revised Sheet No. 14D

The proposed effective date of the above substitute tariff sheets is February 15, 1983, the date of the Commission's order affirming the initial decision in Docket No. RP74-41-000 (Remand).

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7784 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-42-000]

Transwestern Pipeline Company; Proposed Changes in FERC Gas Tariff

March 21, 1983.

Take notice that Transwestern Pipeline Company (Transwestern) on March 1, 1983 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Revised Twenty-first Revised Sheet No. 5
Revised Twenty-first Revised Sheet No. 6
Seventh Revised Sheet No. 6A

The above tariff sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision set forth in Article 19 of the General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The Purchased Gas Cost Adjustment reflected in these sheets is a decrease of 36.01¢/dth measured against the revised October 1, 1982 PGA filing made by Transwestern on December 9, 1982, which is still pending final Commission approval.

The rate change therein consists of:

(1) An increase in the Cost of Gas Adjustment of 9.05¢/dth based upon increases in the projected cost of the majority of Transwestern's gas

purchases offset by reductions due to Transwestern's exercise of its "market out" provisions in certain of its gas purchase contracts.

(2) A decrease in the Surcharge Adjustment of 38.60¢/dth due to a reduction in the balance in the Gas Cost Adjustment Account as of December 31, 1982 and a special adjustment designed to reduce rates in order to effect Transwestern's exercise of its "market out" provisions in certain of its gas purchase contracts for the period January 1, 1983—March 31, 1983.

(3) The Commission-approved termination of Transwestern's Order No. 93 Special Surcharge Adjustment of 6.46¢/dth.

(4) The Incremental Pricing Surcharges for the months of April, 1983 through September, 1983 are projected to be zero.

As stated above this filing reflects the impact of Transwestern's exercise of its "market out" provisions in certain of its gas contracts. Transwestern's projected cost of gas has been reduced to reflect such impact beginning April 1, 1983. In addition Transwestern proposes therein to reduce its rates to be effective April 1, 1983 by the impact of Transwestern's exercise of such "market out" provisions for the period January 1, 1983 through March 31, 1983. This is to be done by means of an adjustment to the Gas Cost Adjustment Account Balance upon which Transwestern's proposed Surcharge Adjustment is based. The amount of the Adjustment applied to the Gas Cost Adjustment Account balance is the estimated reduction in purchased gas cost for the period January 1, 1983 through March 31, 1983 for those gas contracts under which the "market out" provisions were exercised.

The proposed effective date of these tariff sheets is April 1, 1983.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7785 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-6073-000, et al.]

Energy Reserves Group, Inc. et al.; Application for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

March 21, 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 7, 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 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 ft [2]	Pressure base
G-6073-000, D, Feb. 25, 1983	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	Michigan Wisconsin Pipe Line Company, South Elton Field, Jefferson Davis Parish, Louisiana.	(1)	
CI61-482-001, D, Mar. 7, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Natural Gas Pipeline Company of America, N.E. Thompsonville and Taquachie Creek Fields, Webb and Jim Hogg Counties, Texas.	(1)	
CI71-216-000, D, Feb. 28, 1983	Cumberland Gas Company, 1319 Quarrier Street, Charleston, West Virginia 25301.	Columbia Gas Transmission Corporation (Formerly: United Fuel Gas Company) Belle V. Hunter Lease, 150 acres, Sheridan District, Lincoln County, West Virginia, (Well O-15) and Roland McComas Lease, 81 acres, Cabell County, West Virginia (Well P-70).	(1)	
CI75-183-002, D, Mar. 9, 1983	CIG Exploration Inc., Nine Greenway Plaza Houston, Texas 77046.	Colorado Interstate Gas Company, West Panhandle Field (Red Cave), Potter, Moore, and Oldham Counties, Texas.	(1)	
CI82-121-001, C, Feb. 17, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Tennessee Gas Pipeline Company, West Delta Block 76 Well No. 2, Offshore Louisiana.	(1)	15.025
CI83-163-000, A, Feb. 25, 1983	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	Bridgeline Gas Distribution Company, South Marsh Island Block 236 Field, OCS-G-4437 and OCS 0310, Offshore Louisiana.	(1)	15.025
CI83-164-000, B, Feb. 28, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Warren Petroleum Company, Blinebry Field, Lea County, New Mexico.	(1)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
CI83-165-000, A, Feb. 28, 1983	Cabot Petroleum Corporation, 921 Main Street, Suite 900 Houston, Texas 77002.	Transcontinental Gas Pipeline Corporation OCS-G-3169, Ship Shoal Area Block 238, Offshore Louisiana.	(4)	15.025
CI83-167-000, F, Mar. 1, 1983	Cities Service Oil and Gas Corporation, (Partial Successor to Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Tennessee Gas Pipeline Company, West Delta & Grand Isle Areas, Offshore Louisiana.	(5)	14.73
CI83-168-000, F, Mar. 1, 1983	....do	Tennessee Gas Pipeline Company, West Delta Area, Offshore Louisiana.	(5)	14.73
CI83-169-000 (G-11041), B, Feb. 28, 1983.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Florida Gas Transmission Company, East Aransas Pass, Aransas County, Texas.	(10)	
CI83-170-000, B, Feb. 28, 1983	Geodynamics Oil & Gas Inc., P.O. Box 51284, Lafayette, Louisiana 70505.	Transcontinental Gas Pipe Line Corporation, Judice Field, Lafayette Parish, Louisiana.	(11)	
CI83-171-000 (CS71-579), B, Feb. 24, 1983.	Grace Petroleum Corporation, Broadway Executive Park, 6501 North Broadway, Oklahoma City, Oklahoma 73116.	Arkansas Louisiana Gas Company, Beckville, West Field, Panola County, Texas.	(12)	
CI83-172-000, A, Mar. 4, 1983	Phillips Petroleum Company, 336 HS&L Bldg., Bartlesville, Oklahoma 74004.	El Paso Natural Gas Company, 2180' FNL & 1930' FWL, Sec. 20, Block A-1 H&GN, Hemphill County, Texas, limited to the Morrow Formation.	(13)	14.73
CI80-12-001, Feb. 28, 1983	Amoco Production Company, P.O. Box 50879, New Orleans, Louisiana 70150.	Texas Gas Transmission Corporation, High Island Block A-573 "B" Platform Offshore Texas.	(14)	

[1] Michigan Wisconsin indicates that the W.E. Walker No. 1 Well was completed in the Homeseaker's "E" Sand, Jefferson Davis Parish, Louisiana by Buckeye Petroleum Company, Inc., and have determined that it is not economically feasible for Michigan Wisconsin to connect said well to their system or to consummate a satisfactory transportation agreement. Said well was drilled by Buckeye per agreement with Energy Reserves Group, Inc.

[2] Deletion of acreage. Applicant no longer holds an interest in the lease involved in this application. Lease had expired and there was no production at time of surrender in September of 1983.

[3] The subject wells have depleted to the point that neither is able to product gas for delivery into the pipeline of Columbia Gas Transmission Corporation (the Buyer). However, if these two wells are released from the contract with Columbia it may be feasible to rework the wells or drill other wells and construct a pipeline to the facilities of Pennzoil, Inc., which are nearer than the Columbia line, under a new contract with Pennzoil, Inc.

[4] Applicant's leasehold rights expired by the terms of the lease on approximately 27,351.75 undeveloped acres. Applicant will continue service from its developed acreage which totals approximately 3,000 acres.

[5] Applicant is filing under Gas Purchase and Sales Agreement dated November 11, 1981, amended by Amendatory Agreement dated February 11, 1983.

[6] Applicant is filing under gas Purchase Contract dated February 24, 1983.

[7] Reclassification of State "367" No. 1 Well from an oil well to a gas well by the Oil Conservation Division of the Energy and Minerals Department of the State of New Mexico.

[8] Applicant is filing under Gas Purchase Contract dated February 7, 1983.

[9] By assignment effective February 1, 1983, Cities Service Company assigned to its wholly-owned subsidiary Cities Service Oil and Gas Corporation, certain oil and gas leases, including leases in West Delta and Grand Isle Areas, Offshore Louisiana.

[10] Contract was cancelled June 26, 1979, as stated in Notice to Purchaser dated May 24, 1979. ARCO has no remaining reserves or production.

[11] Depletion of all commercially producible oil and gas zones.

[12] No longer producing in commercial quantities: uneconomic.

[13] Applicant is filing under Gas Purchase Agreement dated June 8, 1979.

[14] Applicant is filing under Gas Purchase Contract dated September 21, 1979, amended by amendment dated December 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. 83-7771 Filed 3-24-83; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Docket Nos. G-10083-003, et al.]

Texaco Inc. (Operator), et al.;

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

March 7, 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 28, 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 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 ft [3]	Pressure base
G-10083-003, D, Feb. 22, 1983	Texaco Inc. (Operator), *et al.*, Tulsa, Oklahoma 74102	Northern Natural Gas Co., Hugoton Friend Field, Finney County, Kans.	(1)	
CI83-538-002, Feb.16, 1983	Arco Oil and Gas Co., Division of Atlantic Richfield Co. P. O. Box 2819, Dallas, Tex. 75221.	Northwest Central Pipeline Corporation [15] Northwest Lovedale Field, Harper County, Okla.	(1)	
CI68-1306-000, D, Feb. 7, 1983	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001	Michigan Wisconsin Pipeline Co., Eugene Island Block 266 Field, OCS Lease No. 790, Offshore Louisiana.	(1)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-1194-002, D, Feb. 18, 1983	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Southern Natural Gas Co., (perdecessor in interest to Sea Robin Pipeline Co.), N/2 of Block 261 and the NE/4 of Block 262, Eugene Island Area, Offshore Louisiana.	(4)	
CI78-1254-001, D, Feb. 18, 1983	do	United Gas Pipe Line Co., (predecessor in interest to Sea Robin Pipeline Co.), N/2 of Block 261 and the NE/4 of Block 262, Eugene Island Area, Offshore Louisiana.	(4)	
CI75-436-001, D, Feb. 7, 1983	COLEVE. A Joint Venture composed of Gas Development Corp. and Energy Ventures Inc., P.O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corp., South Marsh Island Block 267, Offshore Louisiana.	(5)	
CI77-584-003, C, May 6, 1982	Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.	United Gas Pipe Line Co. and Southern Natural Gas Co., Block 47, Eugene Island Area, Offshore Louisiana.	(6)	15.025
			(7)	
CI79-104-001, D, Feb. 7, 1983	Columbia Gas Development Corp., P.O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corp., South Marsh Island Block 267, Offshore Louisiana.	(8)	
G-10706-000, D, Feb. 17, 1983	Sun Exploration and Production Co. (formerly Sun Oil Co.), P.O. Box 20, Dallas, Tex. 75221.	Northwest Central Pipeline Corp.,[9] Eureka Field, Grant and Alfala Counties, Okla.	(9)	
CI68-656-000, D, Feb. 11, 1983	do	Panhandle Eastern Pipe Line Co., N.W. Dombey Field, Texas County, Okla.	(10)	
CI83-145-000, (CI74-213), B, Feb. 7, 1983.	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046	Northern Natual Gas Co., Gomez (Ellenburger Field), Pecos County, Tex.	(11)	
CI83-146-000, A, Feb. 7, 1983	Eugene Shoal Oil Co., Union Oil Center, Room 932, P.O. Box 7600, Los Angeles, Calif. 90051.	Transcontinental Gas Pipe Line Corp., Block 194 Field, Mississippi Canyon Area, Offshore Louisiana.	(12)	15.025
CI83-147-000 (G-17560), B, Feb. 10, 1983.	Shell Oil Co., One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	Texas Gas Transmission Corp., Bayou Pigeon Field, Iberia Parish, La.	(13)	
CI83-148-000, A, Feb. 10, 1983	Oxy Petroleum Inc., 5000 Stockdale Highway, Bakersfield, Calif. 93309.	United Gas Pipe Line Co., Blocks 155 and 156, South Marsh Island Area, South Addition, Offshore Louisiana.	(14)	15.025
CI83-149-000, A, Feb. 14, 1983	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160	Natural Gas Pipeline Co. of America, South Marsh Island Block 236 Field, OCS-G-4437 and OCS 0310, Offshore Louisiana.	(15)	15.025
CI83-151-000, E, Feb. 15, 1983	ANR Production Co. (successor to Michigan Wisconsin Pipe Line Co.), 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Tex. 77056	Michigan Wisconsin Pipe Line Co., various acreage located in Beaver County, Okla.	(16)	14.65
CI83-152-000, B, Feb. 16, 1983	John Murphy (ada Murphy Oil Co.), formerly Quaker State Oil, 200 Jefferson, El Dorado, Ark. 71730.	Columbia Gas Transmission Corp., Meigs County, Ohio	(17)	
CI83-153-000, B, Feb. 16, 1983	Ladd Petroleum Corp., 830 Denver Club Building, Denver, Colo. 80202.	Northwest Pipeline Corp., Farmington #1-3 Well, T-30-N, R-13-W, San Juan County, N. Mex.	(18)	
CI83-154-000, A, Feb. 22, 1983	Mesa Petroleum Co., One Mesa Square, P.O. Box 2009, Amarillo, Tex. 79189.	Columbia Gas Transmission Corp., South Pelto Block 6, Offshore Louisiana.	(19)	15.025
CI63-155-000, F, Feb. 22, 1983 [20]	Transco Exploration Co., (Partial Successor in Interest to Tenneco Oil Co.), P.O. Box 1396, Houston, Tex. 77251.	Tennessee Gas Pipeline Co., Vermilion Block 218 Field, Blocks 217, 218, 225, and 226, Offshore Louisiana.	(21)	14.73
CI83-156-000 (CI72-833), B, Feb. 22, 1983.	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kans. 67201.	El Paso Natural Gas Co., Bisti and Gallegos Gallup Field, San Juan County, N. Mex.	(22)	
CI83-157-000 (CI76-345), B, Feb. 22, 1983.	do	El Paso Natural Gas Co., East Bisti Field, San Juan County, N. Mex.	(23)	
CI83-158-000, B, Feb. 22, 1983	Coquina Oil Corp., P.O. Drawer 2960, Midland, Tex. 79702.	El Paso Natural Gas Co., Burton Flat Field, Eddy County, N. Mex.	(24)	
CI83-159-000, B, Feb. 22, 1983	Bengal 72-A Fund, P.O. Drawer 2960, Midland, Tex. 79702.	do	(25)	
CI83-160-000, B, Feb. 22, 1983	Bengal 72-B Fund, P.O. Drawer 2960, Midland, Tex. 79702.	do	(25)	
CI83-161-000, B, Feb. 22, 1983	TR, Ltd., P.O. Drawer 2960, Midland, Tex. 79702	do	(25)	
CI83-162-000, B, Feb. 22, 1983	Nautilus Venture, P.O. Drawer 2960, Midland, Tex 79702.	do	(25)	
CI68-951-001, E, Feb. 23, 1983	Petro-Lewis Corp. (Operator) (Successor in Interest To Conoco Inc.), P.O. Box 2250, Denver, Colo. 80201.	Pacific Lighting Service & Supply Co., Carpinteria Blocks 51 and 52 Field, Offhore California.	(26)	14.75
CI80-3-001, E, Feb. 23, 1983	do	Transcontinental Gas Pipe Line Corp., Mississippi Canyon Blocks 151, 194 and 195, Offshore Louisiana.	(24)	15.025

[1] Fuel to Lessor for agricultural irrigation.
[2] Applicant is filing to change delivery point.
[3] Farmout to Texoma Production Co.
[4] Non-producing acreage.
[5] Production from the 6300' Sand has ceased. COS-G-2309 Well No. 1 has been plugged and abandoned. Seller's OCS-G-2309 lease has expired.
[6] Applicant is filing under Gas Purchase Contract dated December 29, 1976.
[7] Not used.
[8] Not used.
[9] All leases dedicated under original contract with the exception of Lease No. S-32648, Miller No. 1, have been assigned or depleted, or have expired by their own terms.
[10] Sun released rights to leases because all economicaly recoverable reserves had been depleted.
[11] Last well in the Ellenburger formation was plugged and abandoned in early 1980.
[12] Applicant is filing under Gas Purchase Agreement dated Jaunary 28, 1963.
[13] Effective October 1, 1982 Shell assigned its interest in all wells, equipment production facilities and other property located on leased premises to Taylor Energy Company and American National Petroleum Company.
[14] Appliant is filing under Gas Purchase Contract dated January 7, 1983.
[15] Applicant is filing under Gas Purchase Contract dated November 3, 1982.
[16] As of January 1, 1983, Michigan Wisconsin has transferred title to the leases and related assets associated with the production of the natural gas here involved to ANR effective December 31, 1982.
[17] No longer producing commercial quantities from the formation under contract. Formation has been pluged in accordance with state law and abandoned.
[18] Well was shut-in in 1978—well has been plugged and abandoned on July 31, 1980.
[19] Applicant is filing under Gas Purchase Agreement dated January 4, 1979.
[20] By assignment dated effective retroactive to April 9, 1981, TXC acquired an 11.11055% interest in Vermilion Blocks 225 and 226. Tenneco Oil Company's interest in the Vermilion Block 218 Field is covered by Rate Schedule No. 281.
[21] Applicant is filing under Gas Purchase Contract dated March 1, 1972, ratified and amended by a Ratification and Amendment dated August 30, 1982.
[22] On December 11, 1981 the well was plugged and abandoned.
[23] Wells can no longer produce against El Paso's line pressure, and it is not economical to install compression.
[24] Effective as of January 1, 1983, Petro-Lewis and its affiliate Petro-Lewis Funds, Inc. acquired through purchase from Conoco all of Conoco's working interest and requests redesignation of Conoco's Gas Rate Schedule Nos. 335 and 464 as Petro-Lewis Corporation (Operator) FERC Gas Rate Schedules Nos. 1 and 2, respectvely.
[25] Cibes Service Gas Company name has been changed to Northwest Central Pipeline Corporation.
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. 83-7632 Filed 3-24-83; 8:45 am]
BILLING CODE 6717-01-M

Office of the Secretary

Procurement and Assistance Management Directorate

AGENCY: Department of Energy.

ACTION: Notice of suspension and proposed debarment.

SUMMARY: This notice announces that the Department of Energy (DOE) has suspended John D. Bartlett and all organizations with which he is or may become affiliated, from participating in any new DOE contract or subcontract. In addition, Mr. Bartlett has been advised that DOE proposes to debar him and all such affiliated organizations for the period beginning on May 6, 1983, or such later date as a final DOE decision to debar is entered and ending on September 13, 1984.

DATE: The suspension became effective on March 21, 1983, and shall last until the proposed debarment becomes effective or for 12 months, whichever occurs earlier.

FOR FURTHER INFORMATION CONTACT: James Nelson, Procurement and Assistance Management Directorate, Room 1I-018, Forrestal Building, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone 202/252-1150.

SUPPLEMENTARY INFORMATION: The suspension and proposed debarment actions are being taken in accordance with the procedures set forth in Federal Procurement Regulations (FPR) Temporary Regulation No. 65, 41 CFR Subpart 1-1.6, 47 FR 43692 (October 4, 1982), and the DOE Procurement Regulations (DOE-PR), 41 CFR Subpart 9-1.6. In addition to John D. Bartlett, the known affiliated organization affected by the suspension and proposed debarment action is Alternate Fuel Source Development Corporation. Mr. Bartlett's address is 4137 Middlebrook Road, Fort Worth, Texas 76116. The address of all the known affiliates is 3610 McGart, Fort Worth, Texas 76110.

During the period of suspension and subsequent debarment, DOE will neither accept nor consider a bid or proposal submitted by Mr. Bartlett or by any organization with which he is affiliated. In addition, DOE will not approve any new contract between him or any such affiliated organization and a DOE contractor.

The suspension and proposed debarment are based on Mr. Bartlett's handling of DOE Grant No. DE-FG 4681AF92508, Alcohol Fuels Technology Grant Program, and possible violation of 18 U.S.C., Section 641, Embezzlement and Theft, and 18 U.S.C. 1001, False Statement, by having misapplied DOE grant funds. Commission of such offenses is cause for suspension under FPR 1-1.606-2 (a) and (c) and for proposed debarment under FPR 1-1.605-2. Mr. Bartlett has been advised that he has the right to submit, by no later than April 21, 1983, a written request for a hearing and a reply to the notice of proposed debarment.

As required under DOE-PR 9-1.602, Mr. Bartlett and the above named affiliated organization has been placed on the DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors which is distributed periodically to DOE Contracting Officers. DOE has also notified the General Services Administration (GSA) of this suspension action. When the proposed debarment becomes effective, GSA shall be notified in accordance with FPR Temporary Regulation No. 65, 41 CFR Subpart 1-1.6, 47 FR 43692 (October 4, 1982).

Issued in Washington, D.C., on March 21, 1983.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 83-7749 Filed 3-24-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2316-5]

Availability of Environmental Impact Statements Filed Feb. 22 Through Feb. 25, 1983 Pursuant to 40 CFR Part 1506.9

Correction

In FR Doc. 83-5591 appearing on page 9365 in the issue for Friday, March 4, 1983, second column, under Federal Energy Regulatory Commission, second line, "C/D" should read "C/O".

BILLING CODE 1505-01-M

[ER-FRL-2325-3]

Availability of Environmental Impact Statements Filed March 7 Through March 11, 1983 Pursuant to 40 CFR Part 1506.9

Correction

In FR Doc. 83-7085 appearing on page 11503 in the issue of Friday, March, 18, 1983, in the third column, under Corps of Engineers, the date for the three entries now reading "April 11, 1983", should read "April 18, 1983".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2329-7]

Availability of Environmental Impact Statements Filed March 14 Through March 18, 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. 830145, Report, COE, OH, Fairport Harbor Operation and Maintenance, Lake County
- ESI No. 830148, Final, COE, TN, Obion-Forked Deer Rivers Basin Stream Renovation, Permits, due: Apr. 25, 1983
- ESI No. 830150, Final, COE, IN, Indiana Dunes Nat'l Lakeshore Erosion Reduction, Porter and LaPorte Counties, due: Apr. 25, 1983
- ESI No. 830154, Final, COE, KS, Upper Little Arkansas River Basin Flood Control, due: Apr. 25, 1983

Department of Energy:
- ESI No. 830147, Final, BPA, SEV, ID, MT, WA, Garrison-Spokane 500 kV Transmission Line, Construction, due: Apr. 25, 1983

Department of the Interior:
- EIS No. 830146, Draft, OSM, MT, PRO, Rosebud Coal Mining Operations, Comprehensive Plan, Rosebud County, due: May 9, 1983
- EIS No. 830152, Draft, BLM, UT, Grand Resource Area Resource Management Plan, Grand and San Juan Counties, due: June 13, 1983
- EIS No. 830153, Final, BLM, AK, Alaska National Petroleum Reserve Oil and Gas Leasing, due: Apr. 25, 1983

Department of Transportation:
- EIS No. 830155, Final, UMT, FL, Jacksonville Metropolitan Area Transit Improvements, Duval County, due: Apr. 25, 1983

Department of Housing and Urban Development:
- EIS No. 830151, Draft, HUD, WY, Elkhorn Valley Housing Development, Mortgage Insurance, Natrona County, due: May 9, 1983

Environmental Protection Agency:
- EIS No. 830149, Final, EPA, TX, Twin Oak Steam Electric Station, Robertson County, NPDES Permit, due: Apr. 25, 1983

Department of Justice:
- EIS No. 830156, Draft, BOP, VT, Windham Federal Prison Camp Activation, Windham County, due: May 9, 1983

Amended Notice:
- EIS No. 721506, Draft, FHW, OH, OH-241 Relocation, OH-241/US 30 Interchange to Oberlin Road Viaduct Officially withdrawn

Dated: March 22, 1983.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 83-7710 Filed 3-24-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59120; ISH-FRL 2330-2]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by April 11, 1983.

ADDRESS: Written comments, identified by the document control number "(OPTS-59120)" and the specific time number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances. Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances. Environmental Protection Agency, Rm. E-216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

TME 83-31

Manufacturer. Confidential.

Chemical. (G) Substituted Acetamide.

Use/Production. (G) Incorporated as a minor constituent in an article for use in commercial establishments. Prod. range: 3 month up to 0.2 kg

Toxicity Data. No data submitted.

Exposure. Dermal and inhalation, a total of 10 workers, up to 1 hr/da, up 5 da/yr.

Environmental Release/Disposal. No release.

TME 83-32

Manufacturer. Confidential.

Chemical. (G) Ployester polyurethane.

Use/Production. (G) Open use. Prod. range: 11,200 (max) kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 27 workers, up to 6 hrs/da, up 6 da/yr; processing: dermal and ocular, a total of 15 workers, up to 6 hrs/da, up to 6 da/yr; Use: dermal and ocular, 6 workers 8 hrs/da, 45 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-100 to land. Disposal by incineration and landfill.

TME 83-33

Manufacturer. Confidential.

Chemical. (G) Disubstituted heteromonocycle.

Use/Production. (G) Open use. Prod. range: 4,480 (max) kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 27 workers, up to 6 hrs/da, up 6 da/yr; processing: dermal and ocular, 48 workers, up to 6 hrs/da, up to 6 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-100 to land. Disposal by incineration.

Dated: March 18, 1983

Linda A. Travers,

Acting Director, Management Support Division

[FR Doc. 83-7623 Filed 3-24-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51459; TSH-FRL 2330-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-550, 83-551 and 83-552: June 8, 1983.

PMN 83-553, 83-554 and 83-555: June 11, 1983.

PMN 83-556, 83-557, 83-558, 83-559, 83-560, 83-561, 83-562, 83-563 and 83-564: June 12, 1983.

PMN 83-565: June 13, 1983.

PMN 83-566, 83-567, 83-568 and 83-569: June 14, 1983.

Written comments by:

PMN 83-550, 83-551, and 83-552: May 9, 1983.

PMN 83-553, 83-554 and 83-555: May 12, 1983.

PMN 83-556, 83-557, 83-558, 83-559, 83-560, 83-561, 83-562, 83-563 and 83-564: May 13, 1983.

PMN 83-565: May 14, 1983.

PMN 83-566, 83-567, 83-568 and 83-569: May 15, 1983.

ADDRESS: Written comments, identified by the document control number "(OPTS-51459)" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-550

Manufacturer. Confidential.

Chemical. (G) Polymer of formaldelhyde and substituted phenols.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-551

Manufacturer. Confidential.

Chemical. (G) Modified polymer of formaldehyde and substituted phenols.

Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-552

Manufacturer. Monsanto Company.
Chemical. (G) Phenol formaldehyde butanol resin.
Use/Production. (S) Crosslinking agent for industrial epoxy and polyacetal coating systems. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,010 mg/kg; Acute dermal: >5,010 mg/kg; Irritation: Skin—Non-irritant, Eye—Moderate.
Exposure. Manufacture: dermal, inhalation and ingestion, a total of 6, workers accidental.
Environmental Release/Disposal. Released to air and land. Disposal by approved hazardous waste facility.

PMN 83-553

Importer. Ilford, Incorporated.
Chemical. (S) Ethanesulfonic acid, 2-[bis (2-cyanoethyl) phosphino]—potassium salt.
Use/Import. (S) Catalyst in photographic processing solution. Import range: 1,800–2,600 kg/yr.
Toxicity Data. Acute oral: 8,340 mg/kg; Irritation: Skin—Marked, Eye—Minimal; EC_{50}, 24 hr (Daphnia magna): 413.7 mg/L; Biodegradation: Not readily biodegradable; Salmonella and Eschericha/Liver Microsome Test: Negative; LC_{50} (Zebra fish) 96 hr: >1,000 mg/L.
Exposure. Manufacture: a total of 5–7 workers, up to 300 manhours/yr.
Environmental Release/Disposal. Disposal by public and private sanitary waste water treatment facilities.

PMN 83-554

Manufacturer. Confidential.
Chemical. (G) 1,3-benzenedicarboxylic acid, 5-substituted, polymer with 1,2-ethanediol and oxo-heteropolycycle.
Use/Production. (G) Industrial resin. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Minimal; Ames Test: Negative.
Exposure. Manufacture, processing and use: dermal and inhalation, a total of 10 workers, in 8 hr/shifts, 20 times/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-555

Manufacturer. Confidential.
Chemical. (G) 1,3-benzenedicarboxylic acid, 5-substituted, polymer with 1,2-ethanediol and oxo-heteropolycycle.
Use/Production. (G) Industrial resin. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Minimal; Ames Test: Positive.
Exposure. Manufacture, processing and use: dermal and inhalation, a total of 6 workers, in 8 hr/shifts, 20 times/yr.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and publicly owned waste treatment facility.

PMN 83-556

Manufacturer. Confidenial.
Chemical. (G) Polyester polyurethane.
Use/Production. (G) Open use. Prod. range: 1,000–200,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal and ocular, a total of 102 workers, up to 8 hrs/da, up 240 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–1,000 kg/yr to land. Disposal by incineration and approved landfill.

PMN 83-557

Manufacturer. Confidential.
Chemical. (G) Disubstituted heteromonocycle.
Use/Production. (G) Open use. Prod. range: 400–90,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and ocular, a total of 156 workers, up to 6 hrs/da, up 18 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–1,000 kg/yr to land. Disposal by incineration, approved landfill or sold as fuel.

PMN 83-558

Manufacturer. Confidential.
Chemical. (G) Modified epoxy resin.
Use/Production. (G) Open use. Prod. range: 40–9,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal and ocular, a total of 54 workers, up to 6 hrs/da, up 250 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–100 kg/yr to land. Disposal by incineration.

PMN 83-559

Manufacturer. Celanese Corporation.
Chemical. (G) Organo phosphate.
Use/Production. (G) Open use. Prod. range: 1,000–10,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and processing: dermal, a total of 12 workers, up to 8 hrs/da, up 240 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by incineration, landfill and recycling.

PMN 83-560

Manufacturer. Celanese Corporation.
Chemical. (G) Organo phosphate polymer.
Use/Production. (G) Open use. Prod. range: 1,000–10,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal, a total of 12 workers, up to 8 hrs/da, up 240 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by incineration, landfill and recycling.

PMN 83-561

Manufacturer. E. I. du Pont de Nemours & Co., Inc.
Chemical. (G) Acrylic alkyd polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, 2 persons/shift, 8 hrs/shift, 3 shifts/da, 1.4 da/yr.
Environmental Release/Disposal. Disposal by incineration.

PMN 83-562

Manufacturer. E. I. du Pont de Nemours & Co., Inc.
Chemical. (G) Acrylic alkyd polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, 2 persons/shift, 8 hrs/shift, 3 shifts/da, 2.5 da/yr.
Environmental Release/Disposal. Disposal by incineration.

PMN 83-563

Importer. Confidential.
Chemical. (G) Substituted indolium, salt.
Use/Production. (S) Colorant for textiles and papers. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Use: Negligible.
Environmental Release/Disposal. No release.

PMN 83-564

Manufacturer. Confidential.
Chemical. (G) Dialkyl cycloaliphatic diester.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 3,000 mg/kg; Acute dermal: > 1,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.

Exposure. Manufacture: dermal and inhalation, a total of 32 workers, up to 3 hrs/da, up 50 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by biological treatment system and incineration.

PMN 83-565

Manufacturer. Confidential.

Chemical. (G) Sodium salt of a polymer of acrylic acid, acrylamide, and substituted acrylamide.

Use/Production. (S) Industrial flocculent in waste treatment and processing mineral streams. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, less than 5 workers, up to 24 hrs/da, up 365 da/yr.

Environmental Release/Disposal. 10-100 kg/yr released to water with more than 10,000 kg/yr to land.

PMN 83-566

Manufacturer. E. I. du Pont de Nemours & Co., Inc.

Chemical. (G) Substituted chlorobenzene.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,250 mg/kg; Irritation: Skin—Moderate, Eye—Non-irritant; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitizer.

Exposure. Manufacture: minimal.

Environmental Release/Disposal. No release.

PMN 83-567

Manufacturer. Confidential.

Chemical. (G) Modified acrylic copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-568

Manufacturer. Confidential.

Chemical. (G) Substituted styrene.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 2 g/kg; Irritation: Skin—Moderate, Eye—Very slight.

Exposure. Manufacture: dermal and inhalation, a total of 16 workers.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-569

Manufacturer. Confidential.

Chemical. (G) Phenyl substituted butane.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 5 g/kg; Irritation: Skin—Moderate, Eye—Slight.

Exposure. Manufacture: dermal, a total of 16 workers.

Environmental Release/Disposal. No release. Disposal by incineration.

Dated: March 18, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

[FR Doc. 83-7622 Filed 3-24-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-17]

Rates Applicable to Ocean Shipments Via OOCL-Seapac Service; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by the Pacific Westbound Conference and OOCL-Seapac Service to allow OOCL-Seapac to act without peril upon its view that certain rate increases ought not to be paid by offerted shippers. The circumstance giving rise to the petition was the cancellation of certain per-containers rates which led to rate increases being inadvertently implemented on less than statutory notice.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L St., N.W., Room 11101. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenor's complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before April 21, 1983. An original and fifteen copies shall be submitted and a copy served on all parties. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 83-7789 Filed 3-24-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Fertility and Maternal Health Drugs Advisory Committee, FDA, and the Center for Population Research, NICHD/NIH—Workshop on the Animal Testing Requirements for Evaluating the Long-Term Safety of Steroid Contraceptives

Date, time, and place. April 27 and 28, 9 a.m.; April 29, 7:30 a.m., Conference Rm. 10, 6th Floor, Bldg. 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, April 27 and 28, 9 a.m. to 5 p.m.; closed committee deliberations, April 29, 7:30 a.m. to 9:30 a.m.; open public hearing, April 29, 10 a.m. to 5 p.m.; A. T. Gregoire, National Center for Drugs and Biologics (HFN-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-1869; Richard Blye, Center for Population Research, 7010 Woodmont Ave., Bethesda, MD 20205, 301-496-1661.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in obstetrics, gynecology, and contraception.

Agenda—open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

The committee in conjunction with the Center for Population Research (NICHHD/NIH) and with the cooperation of the World Health Organization, the Population Council,

and Agency for International Development will review and discuss animal testing requirements for evaluating long-term safety of steroid contraceptives.

Topics to be discussed will include a clinical overview of oral contraceptive use and the current long-term safety requirements for contraceptive steroids, discussions of the comparative pharmacology, pharmaco-kinetics, metabolism and mechanism of steroid action, hepatotoxicity of steroids, and the role of this knowledge as predictors of clinical effects.

Steroid use and carcinogenicity and the utilization of increased and multiple doses in the current testing requirements will be reviewed.

The effect of steroid use on lipids, blood coagulation, and other metabolic changes will be discussed as well as current ongoing primate long-term investigations.

After open discussion of the above, the committee will consider the following specific issues concerning steroid contraceptives:

1. How can the knowledge of steroid pharmacokinetics, metabolism, and steroid hormone action be utilized in the design of meaningful animal safety studies?

2. Should guidelines for preclinical animal safety studies be amended to allow earlier Phase I clinical pharmacology studies?

3. How can the current long-term animal safety requirements be modified to consider the steroid drug's chemical structure, pharmacology, and mode of administration for extrapolation to humans?

14. Should dose levels in animal safety studies consider an end organ's responsiveness? How can the results of these studies be extrapolated and predictive of potential human adverse reactions, e.g., thromboembolic and other vascular disorders?

5. What research should be undertaken to make data interpretation and evaluation predictive of potential clinical problems?

6. Are there alternatives to long-term animal studies that FDA can rely on for the assessment of safety of steroid contraceptives?

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information regrading NDA 18-592. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to frustrate significantly the implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: March 17, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-7699 Filed 3-24-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Atlanta District Office, chaired by John H. Turner, District Director. The topics to be discussed are: Patient and drug education program, FDA's mission, drug tampering, and the Cambridge diet.

DATE: Thursday, April 14, 1983, 9:30 a.m.

ADDRESS: Vocational—Adult Education Building, Tuskegee Institute, Tuskegee, Alabama.

FOR FURTHER INFORMATION CONTACT: Janice Moton, Consumer Affairs Officer, Food and Drug Administration, 1182 West Peachtree St., NW., Atlanta, GA 30309; 404–881–7355.

Seattle District Office, chaired by Kenneth A. Hansen, District Director. The topic to be discussed is: patient information.

DATE: Wednesday, April 20, 1983, 1:30 p.m. to 3:30 p.m.

ADDRESS: Lloyd Center Auditorium, 1002 NE. Holladay St., Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Ellen M. Miller, Consumer Affairs Officer, Food and Drug Administration, 5009 Federal Office Building, Seattle, WA 98174; 206–442–1311.

Seattle District Office, chaired by Kenneth A. Hansen, District Director. The topic to be discussed are: nutrition and medical quackery.

DATE: Thursday, April 28, 1983, 1:30 p.m. to 3:30 p.m.

ADDRESS: Federal Office Building, Rm. 1057, 909 1st Ave., Seattle, WA 98174.

FOR FURTHER INFORMATION CONTACT: Susan J. Hutchcroft, Consumer Affairs Officer, Food and Drug Administration, 5009 Federal Office Building, Seattle, WA 98174; 206–442–5265.

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: March 21, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-7701 Filed 3-24-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0072]

Hydracon Corporation; Premarket Approval of Hydracon (Hydrofilcon-55A) Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Hydracon (Hydrofilcon-55A) Contact Lens, sponsored by Hydracon Corp., Huntington Beach, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by April 25, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301-427-7445.

SUPPLEMENTARY INFORMATION: On June 3, 1982, Hydracon Corp., Huntington Beach, CA, submitted to FDA an application for premarket approval of the Hydracon (Hydrofilcon-55A) Contact Lens. The lens ranges in power from −20.00 to +10.00 diopters and is indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes who have myopia or hyperopia and who may have refractive astigmatism of 1.25 diopters or less. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On March 2, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and report provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Hydracon® (Hydrofilcon-55A) Contact Lens states that the lens is to be used only with a chemical (not heat) disinfection regimen. The restrictive labeling informs wearers that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens-care solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to

refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before April 25, 1983, file with the Dockets Management Branch (address above), two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 18, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-7688 Filed 3-24-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0086]

Public Meeting; Hematin Workshop

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public meeting to discuss Hematin and the pathophysiology and therapy of the porphyrias.

DATE: The meeting will be held on March 30, 1983, from 8:30 a.m./ to 5 p.m.

ADDRESS: The meeting will be held at Bldg. 29, Rm. 121, 8800 Rockville Pike, Bethesda, MD 20205.

FOR FURTHER INFORMATION CONTACT: Genesio Murano, Office of Biologics (HFN-830), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205; 301-496-2694.

SUPPLEMENTARY INFORMATION: The porphyrias are primarily inherited and more rarely acquired diseases that involve the abnormal production and excretion of heme precursors, porphyrins, which results in a variety of serious pathologic responses. Hematin, a derivative of Hemin, is believed to function by a negative feedback process resulting in a reduction of the concentration of porphyrin.

The Office of Biologics of the National Center for Drugs and Biologics, FDA, and the National Heart, Lung, and Blood Institute, National Institutes of Health, are sponsoring a public workshop to discuss Hematin and the pathophysiology and therapy of the porphyrias. The meeting will provide a forum to: (1) Update experiences with the management of this rare and complicated disease and (2) evaluate and establish criteria of safety and efficacy regarding the use of purified "Hematin" as a potentially useful therapeutic modality for the porphyrias.

The meeting will be held from 8:30 a.m. to 5 p.m., March 30, 1983, in Bldg. 29, Rm. 121, 8800 Rockville Pike, Bethesda, Md 20205. Interested persons wishing to attend are requested to contract Genesio Murano (address above).

Dated: March 18, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-7541 Filed 3-21-83; 12:29 pm]

BILLING CODE 4160-01-M

Small Business Exchange Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming small business exchange meeting to be chaired by Maurice D. Kinslow, Regional Food and Drug Director, Region IV, Atlanta Field Office.

DATE: The meeting will be held at 1:30 p.m., Thursday, May 12, 1983.

ADDRESS: The meeting will be held at Urban Life Center, Rm. 201, Georgia State University, Atlanta, GA 30303.

FOR FURTHER INFORMATION CONTACT: Timothy R. Wells, Small Business Representative, Food and Drug Administration, 1182 W. Peachtree St. NW., Atlanta, GA 30309; 404-881-3576.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small business and FDA officials. The meeting will provide a forum for the owners and managers of small business to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small businesspersons in FDA's decisionmaking process.

Dated: March 18, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-7700 Filed 3-24-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82 P-0108]

Availability of Approved Variance for a Computed Tomography X-Ray Product Patient Alignment System

Correction

In FR Doc. 83-5089 appearing on page 8588 in the issue of Tuesday, March 1, 1983, make the following correction in the third column, the third line: The section reference should read "§ 1010.4(a)".

BILLING CODE 1505-01-M

Request for Nominations for Voting Members on Public Advisory Committees or Panels

Correction

In FR Doc. 83-4914 beginning on page 8593 in the issue of Tuesday, March 1, 1983, make the following corrections on page 8594:

1. In the middle column, beginning with the third line from the bottom, the phrase "application for these devices classified in the premarket approval" should be removed.

2. In the third column, the fifth line, inset the following phrase after the word "approval": "applications for those devices classified in the premarket approval".

BILLING CODE 1505-01-M

Public Health Service

Delegation of Authority; Preparation for Practice

Notice is hereby given that the following delegation has been made regarding Preparation for Practice under Section 336(a) of the Public Health Service Act (42 U.S.C. 245h–1), as amended.

Delegation from the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration, with the authority to redelegate, of all the authorities under Section 336(a) of the Public Health Service Act, as amended.

Previous delegations and redelegations made to officials within the Public Health Service of authorities under Title III of the Public Health Service Act may continue in effect provided they are consistent with this delegation.

The above delegation was effective on March 18, 1983.

Dated: March 18, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83–7760 Filed 3–24–83; 8:45 am]

BILLING CODE 4160–16–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 published on March 18.

Public Health Service

Office of the Assistant Secretary for Health

Subject: First Pretest of the "Supplement on Aging" for the 1984 National Health Interview Survey—new
Respondents: Sample households representing civilian noninstitutionalized population
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Study of the Natural History of Senile Dementia—new
Respondents: Individuals 65 and over
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Cosmetic Product Ingredient Statement (0910–0030)—extension/no change
Respondents: Cosmetic product manufacturers, repackers and distributors
Subject: Cosmetic Raw Material Composition Statement (0910–0031)—extension/no change
Respondents: Cosmetic raw material manufacturers and suppliers
Subject: Cosmetic Product Experience Reports (0910–0047)—extension/no change
Respondents: Cosmetic product manufacturers and distributors
Subject: Notice of Discontinuance of Commercial Distribution of Cosmetic Product or Cosmetic Raw Material (0910–0029)—extension/no change
Respondents: Cosmetic product manufactaurers and distributors
Subject: Recordkeeping Requirements for Exemption from FDA Approval for New Drugs Used in Nonhuman Research (0910–0135)—extension/no change
Respondents: Drug manufacturers and repackers
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: State Mental Institution Policy Review (SSA–9584–BK (2–83))—revision
Respondents: State mental institutions
Subject: Monthly Statistical Report on Recipients and Payments Under State Administered Assistance Programs for Aged, Blind, and Disabled (SSA–9741)—extension/no change
Respondents: States administering state supplementation under the Supplemental Security Income program
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Inpatient Hospital and Skilled Nursing Facility Admission and Billing Form (FCFA 1453)—revision
Respondents: Hospitals and skilled nursing facilities participating in the Medicare program
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

Joseph F. Costa, Acting HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201;
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503; ATTN: (name of OBM Desk Officer).

Dated: Maarch 18, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83–7997 Filed 3–24–83; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI–108]

Intended Supplement to Final Environmental Impact Statement; Charleston, S.C.

The Department of Housing and Urban Development gives notice that a Supplement to a Final Environmental Impact Statement (EIS) is intended to be prepared for the City of Charleston, South Carolina, for the following project under HUD programs as described in the appendices of the Notice: The Charleston Center. The purpose of this Notice is to evaluate further environmental impacts of the project since the issuance of the first supplement to the Environmental Impact Statement in September 1979.

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 appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the Supplement 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 Supplement 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 Supplement 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., March 17, 1973.

Francis G. Hass,

Deputy Director, Office of Environment and Energy.

Appendix

Supplemental EIS on The Charleston Center, Charleston, South Carolina

Description: The City of Charleston, South Carolina intends to issue a Supplement to the Final Environmental Impact Statement for the Charleston Center which is located in the downtown peninsula area of Charleston, South Carolina.

The Supplement will evaluate any further environmental impacts of the Project since the first Supplement to the Final Environmental Impact Statement including the effect, if any, of increased federal funding and the substitution of a different developer for the Project.

The Charleston Center was originally planned to be a mixed-use Project, consisting of a parking facility, a hotel and convention center and a retail area. Current development consists of these same components, with the possibility of some change in the configuration and layout of the Project.

Copies of the Supplement will be available in the near future. The comment period for the Supplement will be thirty (30) calendar days after the date of publication of Notice in the Federal Register that the Supplement has been filed.

The final Environmental Impact Statement for the Charleston Center was issued in June, 1979, and a First Supplement thereto was issued in September, 1979. Copies are available for review at City Hall, 80 Broad Street, Charleston, South Carolina.

Comments: Comments concerning this Notice are invited from all affected and interested parties and should be received in writing as soon as possible, but not later than ten (10) calendar days after publication of the Notice in the Federal Register.

Telephone or written inquiries about this Notice may be directed to Joseph P. Riley, Jr., Mayor, City of Charleston, Post Office Box 652, Charleston, South Carolina 29402, telephone number (803) 577-6970.

[FR Doc. 83-7702 Filed 3-24-83; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Dickinson District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management (BLM) Dickinson District Advisory Council will meet April 25, 1983. The primary objective of the meeting will be to discuss land use recommendations for the McKenzie-Williams and Southwest North Dakota management framework plans. The members will also be briefed on possible BLM land sales in 1983, the asset management program, and the new role of the Dickinson District (following the BLM merger with components of the Minerals Management Service).

Location, Date, and Time: The meeting will be held April 25, 1983, in the Community Room (basement) of the Gate City Building, 204 Sims Street, Dickinson, North Dakota, beginning at 9:00 a.m. Mountain Time. There will be a one-hour break for lunch, and the meeting will probably be concluded by 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Information Specialist, Bureau of Land Management, Dickinson District Office, P.O. Box 1229, Dickinson, ND 58601; telephone 701-225-9148.

SUPPLEMENTARY INFORMATION: The council is chartered by the Secretary of the Interior to provide citizen advice to the Dickinson District Manager in matters concerning BLM-administered lands and resources.

The meeting is open to the public. Anybody may attend and/or file a written statement. During the meeting, the public will be given the opportunity to ask questions or make statements. Written statements for the council can be mailed to the Dickinson District at the above address.

The counties included in the two land use plans to be discussed are McKenzie, Williams, Billings, Slope, Bowman, Hettinger, Adams, and Grant. The major resource considered in the plans is federally reserved coal lying under privately owned lands. BLM administered surface lands in the planning areas (37,202 acres) consist of small parcels scattered widely, except in western Bowman County, where there is a solid block of over 22,000 acres. Both plans are scheduled for completion in September 1983.

Minutes of the meeting will be prepared and made available for the public.

Alan Kesterke,

District Manager.

[FR Doc. 83-7586 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 18773]

Oregon; Order Providing for Opening of Public Lands

1. In exchanges of lands made pursuant to Section 206 of the Act of October 21, 1976, 90 Stat. 2756; 43 U.S.C. 1716 (1976), the following lands have been reconveyed to the United States:

Willamette Meridian

T. 35 S., R. 37 E.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, and SE¼;
Sec. 2, lots 3 and 4, S½NW¼, and SW¼;
Sec. 3, lots 1 and 2, S½NE¼, and S½;
Sec. 4, lots 1 and 2, S½NE¼, N½SW¼, SE¼SW¼, and S½SW¼SW¼;
Sec. 5, lots 1 and 2, S½NE¼, and SE¼;
Sec. 9;
Sec. 10, E½;
Sec. 11, W½;
Sec. 12, NE¼.
T. 36 S., R. 37 E.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, and S½;
Secs. 11, 13, 15, and 23;
Sec. 25, N½NE¼, SE¼SE¼NE¼, W½SW¼NE¼, and W½;
Sec. 35, NE¼NE¼.
T. 33 S., R. 38 E.,
Sec. 23, SW¼SW¼ and SE¼SE¼.
T. 35 S., R. 38 E.,
Sec. 7, SE¼;
Sec. 9, E½NW¼;
Sec. 19, lots 1, 2, 3, and 4, and E½NW¼.
T. 33 S., R. 39 E.,
Sec. 3, SE¼NE¼;
Sec. 19, E½NE¼;
Sec. 21, SW¼SW¼;
Sec. 33, NW¼NW¼, NW¼SE¼, and NE¼NE¼.
T. 32 S., R. 40 E.,
Sec. 3, N½ of lot 3.
T. 36 S., R. 40 E.,
Sec. 5, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 7, lots 3 to 10, inclusive, and lots 15 to 22, inclusive;
Sec. 9, W½NW¼;
Sec. 19, lots 2 to 11, inclusive, and lots 14 to 23, inclusive.
T. 37 S., R. 40 E.,
Sec. 16, SW¼SE¼;
Sec. 17, E½SW¼;
Sec. 20, E½NW¼.
T. 31 S., R. 41 E.,
Sec. 31, NW¼NE¼.

The areas described aggregate 10,057.88 acres in Malheur County, Oregon.

2. At 9:30 a.m. on April 25, 1983, the lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All

valid applications received at or prior to 9:30 a.m., on April 25, 1983, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. All minerals in the following described lands were and continue to be in United States ownership. The lands have been and continue to be open to operation of the United States mining laws and mineral leasing laws:

Willamette Meridian

T. 35 S., R. 37 E.,
Sec. 1, lots 3 and 4 and SW¼NW¼;
Sec. 2, lots 3 and 4 S½NW¼, and SW¼;
Sec. 3, lots 1 and 2, S½NE¼, and S½;
Sec. 4, lots 1 and 2, S½NE¼, N½SW¼, S½SW¼SW¼, and SE¼SW¼;
Sec. 5, lots 1 and 2, S½NE¼, and SE¼;
Sec. 9;
Sec. 10, E½;
Sec. 11, W½;
Sec. 12, NE¼.

The area described contains 2,974.62 acres.

4. All minerals in the following described lands are not in United States ownership and are not subject to operation of the United States mining laws and the mineral leasing laws:

Willamette Meridian

T. 35 S., R. 37 E.,
Sec. 1, SE¼.
T. 36 S., R. 37 E.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 11;
Sec. 13, NE¼ and S½;
Sec. 15;
Sec. 23;
Sec. 25, N½NE¼, W½SW¼NE¼, SE¼SE¼NE¼, and W½;
Sec. 35, NE¼NE¼.
T. 33 S., R. 38 E.,
Sec. 23, SW¼SW¼ and SE¼SE¼.
T. 35 S., R. 38 E.,
Sec. 7, SE¼;
Sec. 19, lots 1, 2, 3, and 4, and E½NW¼.
T. 33 S., R. 39 E.,
Sec. 3, SE¼NE¼;
Sec. 19, E½NE¼;
Sec. 21, SW¼SW¼;
Sec. 33, NE¼NE¼, NW¼NW¼, and NW¼SE¼.
T. 32 S., R. 40 E.,
Sec. 3, N½ of lot 3.
T. 36 S, R. 40 E.,
Sec. 5, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 7, lots 3 to 10, inclusive, and lots 15 to 22, inclusive;
Sec. 9, W½NW¼;
Sec. 19, lots 2 to 11, inclusive, and lots 14 to 23, inclusive.
T. 31 S., R. 41 E.,
Sec. 31, NW¼NE¼.

The areas described aggregate 6,444.05 acres.

5. At 9:30 a.m. on April 25, 1983, the lands described in paragraph 1, except as provided in paragraphs 3 and 4, will be open to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possesssion are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. At 9:30 a.m., on April 25, 1983, the lands described in paragraph 1, except as provided in paragraphs 3 and 4, will be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: March 18, 1983.

Robert E. Mollohan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-7718 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81670]

Wyoming; Realty Action Competitive Sale of Public Lands in Big Horn County

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($7,500):

Legal description	Acreage
T.51 N., R. 96 W.	
Section 24	
Lot 23	5.56
Lot 36	27.74
Total acreage	33.30

The land which will be offered for sale at public auction by competitive bidding, has not been used and is not required for any federal purpose. It does not complement BLM programs and is in accord with district land use planning. The lands identified for disposal lie along the edge of existing agricultural lands, and have potential for agricultural development, grazing land for domestic livestock, or a potential rural homesite with legal access to a paved county road. The subject lands because of location to adjoining private lands in crop production and existing irrigation ditches crossing the lands, are subject to unauthorized agriculture use. Disposal would not have any significant effect on resource values and would best serve the public interest.

The terms and conditions applicable to the sale are as follows:

1. All minerals in the lands will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976.

2. Right-of-way for ditches and canals will be reserved to the United States.

3. Valid existing rights including issued oil and gas leases and access road right-of-way W-81609 to Big Horn County.

4. Development of the parcel will be subject to compliance with the Big Horn County Comprehensive Plan and Adopted Development Regulations.

5. Federal law requires that all bidders be U.S. citizens at least 18 years of age. Corporations must be authorized to own real estate in the state in which the sale land is offered, and proof of this requirement shall accompany the bid.

The land will be sold by a combination of sealed and oral bids. Sealed bids may be submitted by mail or in person and/or oral bids may be made at the sale. Sealed bids will be considered only if received at the Bureau of Land Management, Worland District Office, Worland, Wyoming 82401, prior to 1:00 p.m. on June 1, 1983. Sealed bids must contain a certified check, post office money order, bank draft, or cashier's check, made payable to the Bureau of Land Management, for at least twenty percent (20%) of the amount of the total bid for the parcel. Sealed bid envelopes must be marked in lower left hand corner as follows:

Worland, Wyoming Public Land Sale, Sale Date—June 1, 1983. The high sealed bid will be announced prior to the invitation for oral bids. Oral bidding will begin at 2:00 p.m. in the Worland District Office. All oral bids will be received in minimum $100 increments. The highest bid, either sealed or oral will establish the sale price. Upon disqualification of an apparent high bidder, the next high bid will be honored. If the highest bid is an oral bid, the successful bidder will be required to pay immediately at least 20 percent (20%) of the purchase price by cash, personal check, money order, bank draft, or any combination of the above methods of payment.

The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in

the disqualification of the apparent high bidder and the bid deposit shall be forfeited. All deposits accompanying unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Wednesday at the same hour and place and continue on each succeeding Wednesday, until the lands are sold as specified in this notice or the sale is otherwise terminated. Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Grass Creek Resource Area Office, 1700 Robertson, Worland, Wyoming 82401 (307/347-6151).

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401. Any advese comments will be evaluated by the District Manager who may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

Dated: March 16, 1983.

Chet Conard,

District Manager.

[FR Doc. 83-7719 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This notice announces that Conoco Inc., Unit Operator of the Eugene Island Block 266 Federal Unit Agreement No. 14-08-0001-864, submitted on March 10, 1983, a proposed supplemental plan of development describing the activities it proposes to conduct on the Eugene Island Block 266 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 18, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-7720 Filed 3-21-83; 8:45 am]

BILLING CODE 4310-MR-M

South Atlantic Outer Continental Shelf; Availability of Final Environmental Impact Statement Regarding the Proposed South Atlantic Oil and Gas Lease Sale No. 78

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a final environmental impact statement (EIS) relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 5,718 blocks consisting of 33 million acres of submerged Federal lands off the coasts of North Carolina, South Carolina, Georgia, and Florida (OCS Sale No. 78).

Single copies of the final EIS can be obtained from the Regional Manager, Atlantic OCS Region, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Copies of the final EIS will also be available for inspection in the following libraries: Richmond Public Library, 101 E. Franklin Street, Richmond, VA 23219; Olivia Rainey Public Library, 104 Fayetteville Street, Raleigh, NC 27601; Dare County Library, Box 966, Manteo, NC 27954; Chaplin Memorial Library, 14 Avenue North, Myrtle Beach, SC 29577; Norfolk Public Library System, 301 South City Hall Avenue, Norfolk, VA 23501; New Hanover County Library, 409 Market Street, Wilmington, NC 28401; Charleston County Library, 404 King Street, Charleston, SC 28401; Richland County Library, 1400 Sumter Street, Columbia, SC 29201; Atlanta Public Library, 126 Carnegie Way N.W., Atlanta, GA 30302; Savannah Public Library, 2002 Bull Street, Savannah, GA 31401; Jacksonville Public Library System, 122 North Ocean Street, Jacksonville, FL 32202; Brunswick-Glynn County Regional Library, 208 Gloucester Street, Brunswick, GA 31520; Leon County Public Library, 127 North Monroe Street, Tallahassee, FL 31401; Volusia County Public Library, City Island, Daytona Beach, FL 32014.

Harold Doley,

Director, Minerals Management Service.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 83-7747 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Delaware Water Gap, National Recreation Area; Restriction of Commercial Traffic

On November 8, 1982, the decision was made by the Mid-Atlantic Regional Office to adopt Alternative B of the final environmental impact statement, which calls for the restriction of commercial through traffic on U.S. Route 209 in the Delaware Water Gap National Recreation Area.

The National Park Service has accepted ownership of the road and pursuant to the Record of Decision a date of April 25, 1983, at 6 a.m. has been set for implementing the closure of the road to through commercial traffic.

For any additional information, contact the Regional Director, National Park Service, Mid-Atlantic Regional Office, 143 S. Third Street, Philadelphia, Pennsylvania 19106.

Dated: March 21, 1983.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 83-7740 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Park and Preserve; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9A, K.L.K. Inc. and Kantishna Mining Company have filed a plan of operations on lands embracing the Howtay Nos. 5, 6, and 7 mining claims within Denali National Park and Preserve. These plans are available for inspection during normal business hours at the Alaska Regional Office, National Park Service,

540 West Fifth Avenue, Anchorage, Alaska.

John E. Cook,

Regional Director, Alaska Region.

[FR Doc. 83-7743 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Park and Preserve; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9A, Red Tape Mining Company has filed a plan of operations in support of proposed mining operations on lands embracing the Little Audrey No. 1, 2, 3, and 4 mining claims within Denali National Park and Preserve. This plan is available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 540 West Fifth Avenue, Anchorage, Alaska.

John E. Cook,

Regional Director, Alaska Region.

[FR Doc. 83-7744 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Park and Preserve; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9A. Red Tape Mining Company has filed a plan of operations in support of proposed mining operations on lands embracing the Yellow Pup No. 1, 2, 3, and 4 mining claims within Denali National Park and Preserve. This plan is available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 540 West Fifth Avenue, Anchorage, Alaska.

John E. Cook,

Regional Director, Alaska Region.

[FR Doc. 83-7740 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Lake Clark National Park and Preserve; Availability

Notice is hereby given that pursuant to the provisions of Pub. L. 94-204, Section 12(b)(4) and in accordance with the terms and conditions for land consolidation and management in the Cook Inlet Area (Report No. 94-729, Section I.B.2), Anaconda Minerals Company has filed a plan of operations. This plan of operations is in support of proposed mineral exploration operations on lands within a township (T. 1 N., R. 21 W., S.M.) within the Lake Clark National Park and Preserve. This plan is available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 540 West Fifth Avenue, Anchorage, Alaska.

John E. Cook,

Regional Director, Alaska Region.

[FR Doc. 83-7745 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-70-M

Western Region; Kaloko-Honokohau National Historical Park

Section 5 of Pub. L. 95-42 authorizes minor boundary revisions to units of the national park system.

Notice is hereby given that the boundary of Kaloko-Honokohau National Historical Park is revised as depicted upon a revised boundary map dated July 1982 and numbered 466/80,001. Copies of the maps are on file and available for inspection at the following addresses:

Director, National Park Service, Department of the Interior, 18th and 19th Streets, at Virginia Ave., NW., Washington, D.C. 20240

Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102

Director, Pacific Area, Pacific Area Office, National Park Service, 300 Ala Moana Blvd., Suite 6305, Box 50165, Honolulu, Hawaii 96850.

Dated: March 14, 1983.

W. Lowell White,

Acting Regional Director, Western Region, National Park Service.

[FR Doc. 83-7741 Filed 3-24-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Decision-Notice—OP3-MC-F-117]

Motor Carriers; 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 improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision in neither a major Federal action significantly affecting the quality of a 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.

Decided: March 21, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3 (202) 275-5223.

MC-F-15172, filed March 7, 1983. LYONS GROUP, INC., (Lyons) (138 East 26th St., P.O. Box 10488, Erie, PA 16514)—control—P-Y TRANSPORT, INC. (P-Y) (2393 West Market St., York, PA 17404). Representative: Maxwell A. Howell, 2554 Massachusetts Avenue, NW., Washington, DC 20008. Lyons, a non carrier, seeks authority to require control of P-Y through the purchase of all of the issued and outstanding capital stock of P-Y. The operating rights of P-Y sought to be controlled by Lyons are contained in common carrier Certificate No. MC-141424 and subs thereunder, authorizing the transportation of numerous specified items, including gypsum and gypsum products, building materials, paper and paper products, chemicals and related products, clay, concrete, glass or stone products, transportation equipment, and malt beverages, throughout specified points in the U.S. Lyons owns all of the outstanding stock of Lyons Transportation Lines, Inc., a motor common carrier, under No. MC-109564 and subs thereunder.

Note.—A temporary authority application has been filed.

[FR Doc. 83-7725 Filed 3-24-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; 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. Heck's, Inc., HUB Industrial Park, McJunkin Road, P.O. Box 158, Nitro, WV 25143.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(i) M & W Distributors, Inc., a West Virginia corporation,

(ii) Federal Wholesale Company, an Ohio corporation,

(iii) Harris & Frank, Inc., a Pennsylvania corporation, dba Steel City Products,

(iv) Heck's Properties, Inc., a West Virginia corporation,

(v) Woodrums, Inc., a West Virginia corporation,

(vi) Woodrum's Home Outfitting Co., a West Virginia corporation,

(vii) Singleton's Stores, Inc., a Virginia corporation,

(viii) Loewenstein & Sons, a West Virginia corporation,

(ix) Galperin Music Co., Inc. a West Virginia corporation,

(x) Tauberg Company, a Pennsylvania corporation,

(xi) Heck's Credit Corp., a West Virginia corporation,

(xii) Heck's of North Carolina, Inc., a North Carolina corporation,

(xiii) Heck's of Ohio, Inc., an Ohio corporation,

(xiv) Heck's-Del., Inc., a Delaware corporation,

(xv) Heck's of Virginia, Inc., a Virginia corporation,

(xvi) Heck's of Tennessee, Inc., a Tennessee corporation, and

(xvii) Heck's of Indiana, Inc., an Indiana corporation.

1. Parent corporation and address of principal office: Ivex Corporation, 2200 Post Oak Blvd., Suite 402, Houston, Texas 77056.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Bestpak Inc., One Prime Parkway, Natick, MA 01760

Camcor Packaging Inc. (Delaware Corp.), 1225 Seamist Drive, Houston, Texas 77008

Prairie State Paper Mill, 190 Logan Avenue, Joliet, IL 60433

Continental Packaging Corp., 555 Michigan Avenue, Kenilworth, NJ 07033

Chippewa Paper Products, 50 South Mannheim Road, Hillside, IL 60162

Bestpak, Inc., Route 15, Fork Union, VA 23055

Continental Packaging Corp., 105 Mahoning Avenue, New Castle, PA 16102

Bestpak Inc., Strawberry Road, Rockville, IN 47872.

1. Parent corporation and address of principal office: Jack Koch Meats, Inc., 317 Philadelphia Street, Covington, KY 41011.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) C. Rice Packing Co.

(ii) Riverfront Meats.

(iii) Southside Packing Co.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7724 Filed 3-24-83; 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.

Agatha L. Mergenovich,
Secretary.

Please direct status inquiries to Team Three at (202) 275-5223.

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 in for a named shipper "under contract."

Volume No. OP3-115

Decided: March 4, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 1515 (Sub-330), filed January 24, 1983, and previously noticed in the FR issue on February 14, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (Same address as applicant), (602) 248-5016. Over *regular routes*, transporting *passengers*, (1) between Bozeman, MT and the MT-ID State line, via West Yellowstone, MT: from Bozeman, MT over U.S. Hwy 191 to West Yellowstone, MT, then over U.S. Hwy 20 to the MT-ID State line and (2) between Tillamook, OR and Portland, OR: from Tillamook, OR over OR Hwy 6 to its junction with OR Hwy 8, near Glenwood, OR, then over OR Hwy 8 to its junction with U.S. Hwy 26, then over U.S. Hwy 26 to Portland, OR.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

Note.—Applicant seeks to tack this authority to its existing authority in MC-1515.

Note.—The purpose of this republication is to correctly reflect the note seeking interstate or foreign commerce and intrastate commerce.

Volume No. OP3-105

Decided: March 18, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 166485, filed March 3, 1983. Applicant: JOAN W. THOMPSON, d.b.a. UNITED TOURS, 1956 Twelfth St., La Verne, CA 91750. Representative: (same as above) (714) 593-9548. Transporting *passengers*, in charter and special operations, beginning and ending at points in San Bernardino and Los Angeles Counties, CA, and extending to points in NV and AZ.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166554, filed March 1, 1983. Applicant: WISCONSIN FREIGHT ASSOCIATION, INC., d.b.a. WFA, 770 North Springdale Rd., Waukesha, WI 53186. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705, (608) 238-3119. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166614, filed March 4, 1983. Applicant: ED HOPSON BROKERAGE CO., A DIVISION OF HOPSON PRODUCE CO., INC., P.O. Box 3287, Oxford, AL 36203. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergreen, AL 36401, (205) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166615, filed March 4, 1983. Applicant: MMT TRANSPORTATION SERVICES COMPANY, a corporation, 1283 Murfreesboro Rd., Nashville, TN 37217. Representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603, (312) 236-9375. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166634, filed March 7, 1983. Applicant: IT DISTRIBUTION SERVICES, INC., 2450 Marion Rd., S.E., Rochester, MN 55903. Representative: Peter Martin Witham (same address as applicant), (507) 288-3331. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166645, filed March 7, 1983. Applicant: K. R. LOCK, d.b.a. CAM-LIN INDUSTRIES, P.O. Box 1061, Lavern, TN 37086. Representative: Terry E. Morgan, 2131 Almanor St., Oxnard, CA 93030, (805) 485-2040. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, (3) *used household goods* for the account of the United States Government incidental 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), and (4) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

[FR Doc. 83-7727 Filed 3-24-83; 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 carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the Federal Register on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the Federal Register December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on

or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve as 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.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." 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 3 at (202)275-5223.

Volume No. OP3-106

Decided: March 18, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF-434 (Sub-10), filed March 1, 1983. Applicant: TRANSCONEX, INC., 3000 N.W. 74th Ave., Miami, FL 33152. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833-8884. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, MD, and DC, on the one hand, and, on the other, New York, NY, Philadelphia, PA, and Baltimore, MD.

MC 65325 (Sub-2), filed March 3, 1983. Applicant: MASTER MOVERS, INC., 6521 Storer Ave., Cleveland, OH 44102. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224-3161. Transporting *household goods*, between points in the U.S. (except AK and HI).

MC 67015 (Sub-3), filed March 1, 1983. Applicant: TIGARD-SHERWOOD TRUCK SERVICE, INC., 3641 N.W. Front St., Portland, OR 97210. Representative: George LaBissoniere, 15 S. Grady Way, Suite 329, Renton, WA 98055, (206) 228-3807. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, and (2) between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, on the one hand, and on the other, points in PA, TX, IL, IN, NM, NJ, SC, NE, OH, and WV.

MC 67234 (Sub-82), filed March 1, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with State Farm Mutual Automobile Insurance Company, of Bloomington, IL.

MC 72495 (Sub-27), filed March 1, 1983. Applicant: DON SWART TRUCKING, INC., Box 49, Route #2, Wellsburg, WV 26070. Representative: Stephen J. Habash, 100 East Broad St., Columbus, OH 43215, (614) 228-1541. Transporting (1) *metal products*, (2) *building materials*, (3) *paper and related products*, (4) *rubber and plastic products*, (5) *commodities in bulk*, and (6) *clay, concrete, and glass or stone products*, between points in the U.S. (except AK and HI), and (7) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 113855 (Sub-543), filed March 1, 1983. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE., Rochester, MN 55901. Representative: Michael E. Miller, 15 Broadway, Suite 502, Fargo, ND 58102 (701) 235-4487. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mazak Corporation, of Florence, KY.

MC 119704 (Sub-11), filed March 4, 1983. Applicant: R. A. HARRIS & SONS, INC., 3501 22nd St., P.O. Box 237, Menominee, MI 49858. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705 (608) 238-3119. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in

WI and the Upper Peninsula of MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128075 (Sub-49), filed March 4, 1983. Applicant: JOHNSRUD TRANSPORT, INC., 5301 Northeast 17th St., Des Moines, IA 50313. Representative: William J. Fairbank, 2400 Financial Center, Des Moines, IA 50309 (515) 282–3525. Transporting (1) calcium chloride, between points in the U.S., under continuing contract(s) with Sicalco, Ltd., of Oak Brook, IL, (2) *chemicals and related products,* between points in the U.S., under continuing contract(s) with Iowa Solvents & Chemicals Corporation, of Des Moines, IA and (3) *general commodities* except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with National Commercial Services Co., Inc., of Des Moines, IA.

MC 141005 (Sub-3), filed March 1, 1983. Applicant: GEMINI EXPRESS LINES, INC., 140 Malloy St., Maple, Ontario, Canada L4K 1C5. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202 (716) 853–0200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between ports of entry on the International boundary line between the United States and Canada, on the one hand, and, on the other, points in the U.S.s (except AK and HI).

MC 147465 (Sub-5), filed March 1, 1983. Applicant: MOORE & SON CO., 1101 Cable Ave., Columbus, OH 43222. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215 (614) 228–1541. Transporting *food and related products,* between Columbus, OH, on the one hand, and, on the other, points in MI.

MC 150115, filed March 1, 1983. Applicant: DONALD R. PRICE, d.b.a. PRICE MOVING & STORAGE CO., P.O. Box 369, Winfield, KS 67156. Representative: Donald R. Price, 1105 Main St., Winfield, KS 67156 (316) 221–1240. Transporting *general commodities* (except classes A and B explosives, household goods), between points in the Summer, Cowley, and Sedgwick Counties, KS.

MC 152685 (Sub-3), filed March 3, 1983. Applicant: RON NOBACH TRUCKING, INC., 7404 44th Ave., N.E., P.O. Box 284, Marysville, WA 98270. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101 (206) 624–2832. Transporting *pulp, paper and related products,* between points in Whatcom and Snohomish Counties, WA, on the one hand, and, on the other, those points in WA, OR, CA, UT, NV, AZ, MT, and CO.

MC 153025 (Sub-3), filed March 4, 1983. Applicant: FLANCO TRANSPORTATION, INC., 104 Thompson, Corsicana, TX 75110. Representative: James W. Hightower, Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237 (214) 339–4106. Transporting *clay, concrete, glass or stone products,* between points in AR and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159224 (Sub-1), filed March 1, 1983. Applicant: HENRY'S VAN SERVICE, INC., Route 206, Tabernacle, NJ 08088. Representative: Martin S. Eittin, 905 N. Kings Highway, Cherry Hill, NJ 08034 (609) 667–6440. 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 166514, filed March 1, 1983. Applicant: 3 L's Inc., 1044 Terminal Rd., Donaldson Center Industrial Airpark, Greenville, SC 29605. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606 (803) 288–6000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Killark Electric Mfg. Co., of St. Louis, MO, (2) The Grigoleit Company, of Decatur, IL, (3) General Cable Company, Div. of GK Technologies, of Greenwich, CT, and (4) Q-Systems, Inc., of Fountain Inn, SC.

MC 166515, filed March 1, 1983. Applicant: JAMES ERWIN WATSON, d.b.a. WATSON TRUCKING COMPANY, P.O. Box 238, Hull, TX 77564. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827–1407. Transporting *Mercer commodities,* between points in AR, LA, MS, OK, and TX.

MC 166535, filed March 7, 1983. Applicant: KENNETH L. POOLE, INC., 3123 Ponder Way, Cottonwood, CA 96022. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *chemicals and related products,* between points in OR, WA, ID, MT, CA, NM, NV, AZ, UT, CO, and WY.

MC 166564, filed March 3, 1983. Applicant: MARKER INDUSTRIES, 29695 Meadowview Rd., Junction City, OR 97448. Representative: Robert Marker (same address as applicant), (503) 688–9541. Transporting *lumber and wood products, building materials, waste or scrap materials not identified by industry producing,* between points in WA, OR, CA, NE, UT, ID and AZ.

MC 166574, filed March 1, 1983. Applicant: RED ROCK TRUCKING, INC., 92 Brookdale St., Cumberland, RI 02864. Representative: Robert A. Mega, 25 Esten Ave., Pawtucket, RI 02860, (401) 724–1200. Transporting *building and construction materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Engineered Wall Systems, and Construction Systems, Inc., both of Smithfield, RI, and Building Components, Inc., of Warwick, RI.

Volume No. OP3–116

Decided: March 4, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 138635 (Sub-135), filed February 22, 1983. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28053. Representative: Terrell Price, 800 Briar Creek Rd., Ste. DD504, Charlotte, NC 28205, (704) 372–8212. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

Note.—Applicant now holds Certificates No. MC–138635 (Sub-No. 125 and C131)X which collectively authorize the nationwide service of the commodities described above. The purpose of this application is to consolidate these two certificates into a single certificate. Upon the issuance of a certificate in this proceeding Certificates Nos. (Sub-No. 125 and C131)X and the underlying Certificates Nos. MC–138635 (Sub-Nos. 46, 68 and 96) are revoked.

MC 156255 (Sub-1), filed February 23, 1983. Applicant: JOHN S. FURDEK 7869 Goya St., St. Louis, MO 63139. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102, (314) 636–2321. Transporting *building materials,* between St. Louis, MO, on the one hand, and, on the other, points in McCracken and Graves. Counties, KY and IL.

MC 164925, filed February 18, 1983. Applicant: ARVIN SWASEY, d.b.a. C & R TRUCKING, 1600 Manzanita Dr., Salt Lake City, UT 84107. Representative: Arvin Swasey, P.O. Box 639, Bountiful, UT 84010, (801) 255–4591. Transporting *general commodities* (except classes A and B explosives, and household goods), (1) between points in WA, OR, CA, AZ, NV, ID, MT, ND, WY, UT, CO and NM (2) between points in UT, on the one hand, and, on the other, points in MN, IA, AR, OK, TX, IL, IN, OH, WV, MD, NC, NY and CT.

MC 166325 filed February 18, 1983. Applicant: CYPRESS TRUCKING,

INCORPORATED, 1325 Sixth St., San Francisco, CA 94107. Representative: Eugene Q. Carmody, 15523 Sedgeman St. San Leandro, CA 94579, (415) 357–6236. Transporting (1) *furniture* and (2) *such commodities* as are dealt in by department stores, between points in San Francisco, San Mateo, Santa Clara, Marin, Sonoma, Yolo, San Joaquin, Solano, Santa Cruz, Monterey, Alameda, Conta Costa, Fresno, and Merced Counties, CA, under continuing contract(s) with Liberty House, of Dublin CA, John Bruener Company, of San Ramon, CA and Judd Weil, Inc., Merchant-Stor Dor Freight System, R. H. Macy Co. Daystrom Furniture, Division of Ladd, Inc. and Stoller & Associates, Inc., all of San Francisco, CA.

[FR Doc. 83-7726 Filed 3-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs; Norfolk and Western Railway Co., Inc., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
870	Norfolk and Western Railway Co., ICC-NW-C-7019 (Bituminous coal)	1	3-18-83
871	Norfolk and Western Railway Co., ICC-NW-C-5024 (Bituminous coal), via the Port of Lamberts Point, VA	1	3-18-83
874	Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-11, Supplement 4 (Coke)	1	3-18-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier.

This action will not significant affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7620 Filed 3-24-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

March 23, 1983.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96–511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer Larry E. Miesse—202–633–4312

New (not previously approved or expired more than 6 months ago)

- Antitrust Division

Department of Justice
Department of Justice Federal Coal Lease Review Information
On occasion
Businesses or other institutions (except farms)
Prospective Federal coal leasees: 50 responses; 50 hours; not applicable under 3504(h).
David Reed—395–7231

Revision

- Immigration and Naturalization Service

Department of Justice
I–20 series, Certificate of Eligibility for Nonimmigrant Student Status (F–1) and (M–1) and ID Copy
Nonrecurring
Individuals or households (Businesses or other institutions [except farms]
Nonimmigrants seeking admission as students: 115,000 responses; 115,000 hours; not applicable under 3504(h).
David Reed—395–7231

- Immigration and Naturalization Service

Department of Justice
I–17 series, Petition for Approval for Attendance by Nonimmigrant Students. (I–17A) Designated School Officials. (I–17B) School System Attachment
On occasion
Businesses or other institutions (except farms)
Educational institutions: 1,100 responses; 1,100 hours; not applicable under 3504(h).
David Reed—395–7231.

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 83-7709 Filed 3-24-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Ending of Extended Benefit Period in the State of Kentucky

This notice announces the ending of the Extending Benefit Period in the State of Kentucky, effective on March 19, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high employment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Kentucky on December 5, 1982 and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on February 26, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on March 19, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Peiod and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service or unemployment compenstion claims office in their locality.

Signed at Washington, D.C. on March 16, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-7755 Filed 3-24-83; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Wisconsin

This notice announces the beginning of a new Extended Benefit Period in the State of Wisconsin, effective on March 13, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on February 26, 1983, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period Commenced in the State with the week beginning on March 13, 1983.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their right under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on March 16, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-7756 Filed 3-24-83; 8:45 am]

BILLING CODE 4510-30-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.

Reinstatement

Mine Safety and Health Administration
Program to Prevent Smoking in Hazardous Areas
MSHA 201
Nonrecurring
Businesses or other institutions; small business or organization
SIC: 111 and 121
540 responses; 270 hours

Requires operators of underground coal mines to institute a program, approved by the Secretary, to ensure that any person entering the underground area of a mine does not carry smoking materials, matches or lighters. The program is necessary to ensure that a fire or explosion does not occur.

Signed at Washington, D.C. this 18th day of March, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-7757 Filed 3-24-83; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Joint Subcommittees on Reliability and Probabilistic Assessment and Extreme External Phenomena; Meeting

The ACRS Joint Subcommittees on Reliability and Probabilistic Assessment and Extreme External Phenomena will hold a meeting on April 13, 1983, Room 1046, at 1717 H Street, NW., Washington, DC. The Subcommittees will discuss NREP (National Reliability Evaluation Program) and the use of probabilistic assessment in the licensing process, systems interactions, the Safety Goal Policy Evaluation Plan, seismic design margins, and the reevaluation of design basis earthquakes for plants in the Eastern United States.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 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 Subcommittees, their 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.

Wednesday, April 13, 1983—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

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 Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: March 22, 1983

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-7774 Filed 3-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352-OL and 50-353-OL]

Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2); Notice and Order of Second Special Prehearing Conference

March 21, 1983.

Please take notice that the Atomic Safety and Licensing Board will conduct a second special prehearing conference consistent with the purposes of 10 CFR 2.751a of the Commission's regulations. This proceeding has been convened to consider the application of Philadelphia Electric Company (Applicant) for licenses to operate the Limerick Generating Station, Units 1 and 2. This facility consists of two boiling water nuclear power plants, located on the Applicant's site adjacent to the Schuylkill River, near Pottstown, in Limerick Township, Montgomery County, Pennsylvania.

The conference will begin on May 9, 1983, at 1:30 p.m. at the: United States District Courthouse, Ceremonial Courtroom, Sixth and Market Streets, Philadelphia, Pennsylvania 19106.

The conference is expected to continue on May 10, and, if necessary, will continue on May 11.[1]

Matters to be discussed at the conference include:

1. The admissibility of conditionally admitted contentions and previously proposed Probabilistic Risk Assessment (PRA) contentions, as now particularized by intervenors, with the exception of emergency planning contentions.

[1] As discussed during the conference call of March 17, 1983, among the Board, the NRC Staff, the Applicant and intervenor Limerick Ecology Action (LEA). LEA's March 14, 1983 motion for an extension of time has been denied.

2. The admissibility of any new PRA contentions, which cannot be accommodated within the category of particularized previously proposed contentions, based on information available since the prior filing of contentions.

3. Any previously admitted contentions which have been deleted, specified or rephrased by intervenors.

4. The status of emergency planning reviews and the schedule for the filing and litigation of onsite and offsite emergency planning contentions.

5. The status of discovery, and procedures and schedule for further discovery.

6. The nature and extent of participation contemplated by governmental agencies which have been admitted pursuant to 10 CFR 2.715(c). *See* the Special Prehearing Conference Order (SPCO), LBP–82–43A, 14 NRC 1423, 1456 (June 1, 1982).

7. The schedule for further actions in this proceeding, including the final wording of admitted contentions, the completion of the NRC Staff review, and the estimated commencement of the hearing. The discussion will include the possibility of litigating some issues earlier than the currently estimated completion of the entire NRC Staff review. The parties shall discuss this prior to the conference.

The NRC Staff shall file a written report which authoritatively and definitively explains the scope and purpose of the use it will make of the Applicant's Probabilistic Risk Assessment, and the NRC Staff review of it, in the context of the Staff's licensing review of the Limerick plant. In formulating its report, the NRC Staff should address the questions and uncertainties expressed by the Board at the first special prehearing conference, in the SPCO, *supra*, 15 NRC at 1489–94, and during the conference call of March 17, 1983. The expected substance of the Staff's report shall be thoroughly discussed with the Applicant and LEA, in advance of its being filed, as part of the required thorough discussions among these parties on PRA and other contentions. The Staff's written report shall be *received* by the Board, the Applicant, and LEA by April 13, 1983. The report will be discussed at the prehearing conference in the context of the PRA contentions.

The parties are invited to suggest other items which they believe should be discussed at the conference provided they do so in a joint filing received by the Board by April 29, 1983.

Counsel or authorized representatives for all parties and governmental participants are directed to attend the prehearing conference. Intervenor, Del-Aware Unlimited, is not required to attend.

The public is invited to attend but there will be no opportunity for public participation during this conference. The Board will provide the opportunity for limited appearance statements at public appearance sessions to be scheduled in the future.

Bethesda, Maryland, March 21, 1983.

It is so ordered.

For the Atomic Safety and Licensing Board.

Lawrence Brenner,

Chairman, Administrative Judge.

[FR Doc. 83-7767 Filed 3-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50–546 and STN 50–547]

Public Service Company of Indiana, Inc. and Wabash Valley Power Association, Inc. (Marble Hill Nuclear Generating Station, Units 1 and 2); Receipt of Application for Facility Operating Licenses; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Opportunity for Hearing

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from the Public Service Company of Indiana, Inc. and the Wabash Valley Power Association, Inc. (applicants) for facility operating licenses to possess, use, and operate the Marble Hill Nuclear Generating Station, Units 1 and 2, two pressurized water reactors at a site owned by the applicants in Saluda Township, Jefferson County, Indiana, approximately six miles northeast of the unincorporated area of New Washington, Indiana located adjacent to the Indiana bank of the Ohio River. The application was filed by Public Service Company of Indiana acting for itself and as agent for Wabash Valley Power Association. Public Service Company of Indiana has sole responsibility for licensing, design, procurement, construction, operation and all related functions with respect to the facilities. The reactors are designed to operate at a core power level of 3411 megawatts thermal, with a net electrical output of approximately 1130 megawatts. The facilities replicate the Byron facilities for which Commonwealth Edison Company has applied for licenses to the Commission (Docket Nos. 50–454 and 50–455). This replication is in accordance with the Commission Staff's Policy and Procedures for the Replication of Custom Plant Designs, WASH–1340, dated July 1974, and the Nuclear Regulatory Commission's August 22, 1978 Statement on Standardization of Nuclear Power Plants.

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, the applicants filed an environmental report as part of the application. The report, which discusses environmental considerations related to the proposed operation of the facility, is being made available in the Indiana State Clearinghouse, State Planning Services Agency, 143 West Market Street, Indianapolis, Indiana 46204 and at the Region XII Development Commission, P.O. Box 904, 231 Washington Street, Columbus, Indiana 47201.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, The Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permit. Upon consideration of comments submitted with respect to the darft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register.**

The Commission will consider the issuance of facility operating licenses to the applicants which would authorize the applicants to possess, use, and operate the Marble Hill Nuclear Generating Station, Units 1 and 2 in accordance with the provisions of the licenses and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicants' application for facility operating licenses by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses, as

amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. Construction of the facilities was authorized by Construction Permit Nos. CPPR–170 and CPPR–171 issued by The Commission on April 4, 1978. The applicants have advised that construction may be completed as early as June 1986 for Unit 1 and December 1987 for Unit 2.

With regard to Excutive Order 11988, Floodplain Management, the Marble Hill facilities will have structures and construction activities located on the floodplain. the subject of floodplain management will be discussed in the Commission's environmental statement referenced above.

Prior to issuance of operating licenses, the Commission will inspect the facilities to determine whether they have been constructed in accordance with the application, as amended, and the provisions of the construction permits. In addition, the licenses will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicants will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By April 14, 1983, the applicants may file a request for a hearing with respect to issuance of the facility operating license. By April 25, 1983 any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board, will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who as been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by April 25, 1983. A copy of the petition must also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harry H. Voigt, Esq., LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036, attorney for the applicants. Any requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses, including the Final Safety Analysis Report and the Environmental Report, forwarded on February 25, 1983, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Madison-Jefferson Public Library, 420 West Main street, Madison, Indiana 47250. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the advisory committee on Reactor Safeguards (ACRS) on the application for the facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Copies of the proposed operating licenses and the ACRS report, when available, may be obtained by request to the Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 15th day of March, 1983.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 83–7766 Filed 3–24–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR–77 and DPR–79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR–77 and Amendment No. 15 to Facility Operating

License No. DPR-79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change the Technical Specifications related to the Rod Position Indication System. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's 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 amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letter dated August 16, 1982, (2) Amendment No. 26 to Facility Operating License No. DPR-77 with Appendix A Technical Specification page change; (3) Amendment No. 15 to Facility Operating License No. DPR-79 with Appendix A Technical Specification page change; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 26 and Amendment No. 15 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 March 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-7770 Filed 3-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR-77 and DPR-79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR-77 and Amendment No. 16 to Facility Operating License No. DPR-79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments extend the time interval required to conduct analog channel operational tests of the Engineered Safety Features Actuation System and Reactor Trip System from one month to three months. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's 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 amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letters dated September 17 and December 29, 1982, (2) Amendment No. 27 to Facility Operating License No. DPR-77 with Appendix A Technical Specification page changes; (3) Amendment No. 16 to Facility Operating License No. DPR-79 with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 27 and Amendment No. 16 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 16th day of March 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-7771 Filed 3-24-83; 8:45 am]

BILLING CODE 7590-01

[Docket No. STN 50-486]

Union Electric Company (Callaway Plant, Unit No. 2); Order Revoking Construction Permit

I

The Union Electric Company holds Construction Permit No. CPPR-140 which authorizes the construction of a nuclear power reactor at a site located in Callaway County, Missouri, on the Missouri River about 16 km (10 mi) southeast of Fulton and 130 km (80 mi) west of St. Louis. Construction Permit No. CPPR-140 was issued on April 16, 1976 and is due to expire on February 28, 1984.

II

On October 9, 1981, Union Electric Company announced by news release that it was cancelling Callaway Plant, Unit 2. By letter, dated April 23, 1982, Union Electric Company formally advised the U.S. Nuclear Regulatory Commission of the cancellation of the second unit of its Callaway Plant and requested that Construction Permit No. CPPR-140 be rescinded.

III

On November 21, 1980, the U.S. Nuclear Regulatory Commission published in the **Federal Register** (45 FR 77208) a Clarification of Notice of Receipt of Application for Facility Operating Licenses; this included a Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing. This notice revised the original notice which indicated Union Electric Company was seeking licenses for the Callaway Plant, Units 1 and 2. The clarified notice indicated that Union Electric Company advised the NRC by letter, dated October 1, 1980 that it was seeking the issuance of an operating license for only Unit 1. It further indicated that the applicant did not anticipate the construction completion of Unit 2 until late 1987, and a separate notice of receipt of an application for Unit 2 would be published in the event Union Electric Company applied for an

application for an operating license for that Unit.

IV

In a letter dated August 17, 1982, Union Electric Company described the status and appropriate installation and construction costs for installed facilities for Unit 2. These facilities consist of the excavated power block area, some underground pipes and ductbanks, and the Essential Service Water (ESW) foundation. The Unit 2 expenditures for such facilities appear to be much less than 1% of the total projected cost for a completed unit. The letter also describes plans to maintain the Unit 2 excavated power block area and drainage system as well as to seed the slopes to prevent erosion. Underground piping and ductbanks will be abandoned in place, and a relatively small number of steel reinforcing bars projecting from the ESW cooling tower foundation will be cut off or bent over so as not to protude. No further redress beyond that described is necessary.

For the reasons set forth above, it is hereby ordered that Construction Permit No. CPPR–140 is revoked.

This Order is effective upon issuance.

Effective Date: March 16, 1983, Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-7773 Filed 3-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District (Fort Calhoun Station Unit No. 1); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Omaha Public Power District (the licensee) is the holder of Facility Operating License No. DPR–40 which authorizes the operation of the Fort Calhoun Station, Unit 1 (the facility) at a steady-state power level not in excess of 1500 megawatts thermal. The facility consists of a pressurized water reactor (PWR) located at the licensee's site in Washington County, Nebraska.

II

Following the accident at Three Mile Island No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82–05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82–10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

Omaha Public Power District responded to Generic Letter 82–05 by letters dated April 30, June 1, June 8, June 30, July 1, September 30, October 1, November 1, November 17, December 1 and December 17, 1982. Omaha Public Power District responded to Generic Letter 82–10 by letters dated June 4, July 1, October 27, and December 30, 1982. In these submittals, Omaha Public Power District confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82–05 and 82–10 addressed thirteen the sixteen items, respectively. Of the ten items listed in Generic Letter 82–10 requiring a response, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of Commission Paper SECY 82–111, as amended; for Items II.K.3.30 and II.K.3.31 (one item), the staff review of the generic models under II.K.3.30 has not been completed, and II.K.3.31 is not required until one year after staff approval of the generic models.

Fourteen of the items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining three items is provided herein:

II.B.3 Post Accident Sampling System

Installation of the post accident sampling system is complete. However, during final system check out, a number of problems arose. A minor software problem was identified in the system microprocessors. Calibration of the on-line pH meter is proving to be difficult. Operational problems have been found with the ionchromatograph. Lastly, the complete testing of the system cannot be completed until the reactor is at power; it is currently shut down for refueling. The licensee is working diligently in correcting these problems and plans to have the system completely operational by the end of June 1983. Interim post-accident sampling procedures are in place.

II.F.1.6 Containment Hydrogen Monitors

This item will be delayed until restart from the present refueling outage. In late 1981, the hydrogen monitors were damaged during calibration; they were subsequently repaired. However, during testing being performed during final system checkout, two valves associated with one of the two monitors failed. Because of the valve failures, the suction and discharge line associated with one of the two monitors were capped. The valves, which are inside containment, will be repaired during the present refueling outage. The licensee presently has the capability to monitor the containment for hydrogen.

III.D.3.4 Control Room Habitability

NUREG–0737 permitted the completion date to be determined by the licensee. The licensee states that all modifications will be completed by January 1984. Three items remain to be completed. Two of the items will be completed by June 30, 1983. These are "Instrumentation for Detection of Airborne Iodine Radiation in the Control Room" and "Electrical and Mechanical Modifications to the HVAC System." The third item will be completed by January 1, 1984. This is "Instrumentation for Monitoring of Toxic Chemical Gases." These items require long lead times because of the engineering work involved, equipment purchases and delivery cycles, and installation and testing for operability.

We find, based on the above evaluation, that (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for the several delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and should, therefore, be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is Hereby Ordered Effective Immediately That the Licensee Shall:

Implement and maintain the specific items described as complete in the attachments to this Order. Incomplete items shall be completed by no later than the dates shown in the attachments (as described in the licensee's submittals noted in Section III herein) and maintained thereafter.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for Hearing Shall Not Stay the Immediate Effectiveness of This Order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland this 14th day of March, 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion, schedule (or status) [1]
I.A.3.1	Simulator Exams	Oct. 1, 1981.	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982.	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-accident sampling	do	Install upgrade post-accident sampling capability	June 6, 1983.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981.	Complete training program	Complete.
II.E.1.2	Aux FW Indication & Flow Indicator.	July 1, 1981.	Modify instrumentation to level of safety grade	Do.
II.E.4.2	Containment Isolation Dependability.	do	Part 5—lower containment pressure setpoint to level compatible with normal operation.	Do.
II.E.4.2	Containment Isolation Dependability.	do	Part 7—isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982.	(1) Install noble gas effluent monitors	Do.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install in-containment radiation-level monitor	Do.
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	1982/1983 Refueling Outage (December 1982).

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–10

Item	Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status) [2]
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82–12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Gen. Ltr. No. 82–12, dtd. June 15, 1982.	Complete.
I.A.1.3.2	[1] Minimum Shift Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	[1] Revise Emergency Procedures	Superseded by SECY 82–111	Reference SECY 82–111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.D.1.3	Block Valve Test Program	do	Submit report of results of test program	Do.
II.K.3.30 & 31	[1] SBLOCA Analysis	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	[1] Staffing Levels for Emergency Situations.	Superseded by SECY 82–111	Reference SECY 82–111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	[1] Upgrade Emergency Support Facilities.	do	do	Do.
III.A.2.2	[1] Meteorological Data	do	do	Do.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)[1]
II.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	January 1984.

[1]Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2]Not Part of Confirmatory Order.

[FR Doc. 83-7865 Filed 3-24-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co.; Order Confirming Licensee Commitments on Post-TMI Related Issues

I

In the Matter of Portland General Electric Co., the City of Eugene, Oregon, Pacific Power & Light Co., (Trojan Nuclear Plant).

Portland General Electric Company, *et al.* (the licensee or PGE) is the holder of Facility Operating License No. NPF-1 which authorizes the operation of the Trojan Nuclear Plant (the facility) at steady-state power levels not in excess of 3411 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Columbia County, Oregon.

II

Following the accident at Three Mile Island No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to the Generic Letters cited above by letters dated April 28, June 11, August 3 and 16, September 10 and 28, October 27, and December 17, 1982. In these submittals, the licensee confirmed that most of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to thirteen and ten items, respectively. Of the ten items listed in Generic Letter 82-10 requiring a response, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1 and III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of Commission Paper SECY 82-111, as amended; for Items II.K.3.30 and II.K.3.31 (one item), the staff review of generic models under II.K.3.30 has not been completed, and II.K.3.31 is not required until one year after staff approval of the generic models.

Eleven of the seventeen items addressed in this Order are considered by the licensee to be complete or to require no modifications. The NRC staff's evaluation of the licensee's delays for the remaining six items is provided below.

II.B.2 Plant Shielding

As reported by the licensee in its letter of April 28, 1982, all hardware modifications necessary to complete this item were completed before January 1, 1982. However, the emergency procedures are being rewritten in reponse to Item I.C.1 of NUREG-0737. The licensee is in the process of reviewing the changes made to the emergency procedures to determine their impact, if any, on the assumptions of the shielding analyses. This review will determine if any procedure revisions are necessary to be consistent with the shielding analyses. Any modifications to procedures will be completed by April 16, 1983, at which time Item II.B.2 will be complete in all respects.

II.B.3 Post-Accident Sampling

This item will be delayed by the licensee and will be completed by July 1, 1983. The delay is due to late delivery of equipment from the vendor.

In order to expedite design and manufacturing of the sampling system, the licensee has provided engineering assistance at the vendor's facility to help resolve detailed design. The licensee also states that it took over design and fabrication responsibilities for certain portions of equipment in order to expedite completion of the major components by the vendor. In addition, PGE has requested assistance from Bechtel Power Corporation to expedite completion of the engineering by the vendor.

In the interim, PGE will maintain implementation of the post-accident sampling procedure outlined in Item 2.1.6.a of PGE letter of April 15, 1980. This interim action was approved in the NRC Safety Evaluation of the licensee's TMI Short-term Lessons Learned actions on April 23, 1980.

II.F.1(1) Install Noble Gas Effluent Monitors and II.F.1(2) Provide Effluent Monitoring of Iodine

The licensee has been experiencing startup problems with the main steamline radiation monitors. Two monitors with failed power supplies have been repaired by the equipment vendors and have been successfully calibrated onsite. However, the power supplies for the remaining two monitors have recently failed and will also be sent back to the vendor for repair. In light of these problems, PGE believes it prudent to allow a period of time for observation and testing of these monitors to ascertain their reliability before decaring them operational. As a result, the scheduled operational date for these monitors has been changed to July 1, 1983.

The remaining noble gas monitors under II.F.1.(1) and the iodine and particulate monitors under II.F.1(2) are being manufactured by a different equipment vendor. The delivery date for this equipment has been subject to numerous delays. The August 1982 delivery date was not met by the equipment vendor. The latest forecast for delivery is the first part of 1983. The licensee has little confidence that this date will be met, based on the number of missed commitments in the past by this vendor and based on the fact that part of the equipment is still in the design phase.

The licensee states that it will continue efforts to expedite delivery, but unless dramatic improvements are evident soon, it will be forced to cancel the contract.

The licensee points out that a significant portion of the system is uniquely designed for Trojan, with portions of the noble gas monitoring system required by II.F.1(1) being combined with part of the iodine and particulate monitoring system required by II.F.1(2). These unique design considerations have precluded the use of generic systems such as those used at many other plants. This has had an impact on the schedule for Trojan and could have a future impact on the completion date if the contract is cancelled or if problems are discovered during startup testing. As a result, the licensee advises that the schedule is being changed to six months after successful receipt inspection of the equipment at Trojan, but not later than December 31, 1983.

In the interim, the licensee states it will maintain implementation of the grab sample procedures described in PGE's letter of January 2, 1980, and accepted in NRC's Safety Evaluation of April 23, 1980, as meeting the TMI Lessons Learned Category "A" requirements.

II.D.1.2 Relief and Safety Valve Test Program

The licensee now plants to address the analysis of relief and safety valve qualification and qualification of downstream piping in one report. The licensee states that due to the interaction of the valves and piping, their qualification cannot be addressed separately. PGE is currently working with its consultants to complete the analysis, but has revised the date for submittal of the valve and piping qualification reports to the startup of Cycle 6 (approximately July 1983).

III.D.3.4 Control Room Habitability

The NRC Safety Evaluation of February 17, 1982 found this item acceptable for Trojan, subject to installation of sulfur dioxide and ammonia detectors in the Control Room Ventilation System on or before January 1, 1983. The licensee states, in its December 17, 1982 letter that some additional time is needed for system startup testing and to develop emergency procedures for dealing with sulfur dioxide and ammonia releases.

We find, based on the above evaluation, that 1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; 2) there is good cause for the several delays; and 3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and should, therefore, be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall:

Implement and maintain the specific items described as complete in the attachments to this Order. Incomplete items shall be completed by no later than the dates shown in the attachments (as described in the licensee's submittals noted in Section III herein) and maintained thereafter.

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland this 14th day of March, 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

TROJAN NUCLEAR PLANT—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 82–05

Item	Title	NUREG–0737 Schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Apr 16, 1983
II.B.3	Post-Accident Sampling	do	Install upgrade post-accident sampling capability	July 1 1983.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.1.2	Aux. Feedwater Initiation & Flow Indication.	July 1, 1981	Modify instrumentation to level of safety grade	Do.
II.E.4.2	Containment Isolation Dependability.	do	Part 5—lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7—isolate purge & vent valves on radiation signal	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Main steamline monitors: July 1, 1983. Balance: Dec. 31, 1983.

TROJAN NUCLEAR PLANT—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05—Continued

Item	Title	NUREG-0737 Schedule	Requirement	Licensee's completion schedule (or status)
		do	(2) Provide capability for effluent monitoring of iodine	Dec. 31, 1983.
		do	(3) Install incontainment radiation-level monitors	Complete.
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.

TROJAN NUCLEAR PLANT—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd. June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [1]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revised Emergency Procedures [1].	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant-specific report on relief and safety valve program.	Cycle 6 Startup (approx. July 1983).
II.D.1.3	Block Valve Test Program	do	Submit report of results of test program	Complete.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model
III.A.1.2	Staffing Levels for Emergency Situations [1].	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency Support Facilities [1].	do	do	Do.
III.A.2.2	Meteorological Data [1]	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Mar. 31, 1983.

[1] Not Part of Confirmatory Order.

[FR Doc. 83-7866 Filed 3-24-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York (Indian Point Nuclear Generating Station, Unit No. 3); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR-64 which authorizes the operation of the Indian Point Nuclear Generating Station, Unit No. 3 (the facility) at steady-state power level not in excess of 3025 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Westchester County, New York.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness, and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) for items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The Power Authority of the State of New York (PASNY) responded to Generic Letter 82-05 by letter dated April 20, 1982; PASNY responded to Generic Letter 82-10 by letter dated June 4, 1982. Subsequently, by letter dated February 15, 1983 PASNY modified their previous commitments. In these submittals, PASNY confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables, summarizing the licensee's schedular commitments or status, were developed by the staff from the Generic Letters and the licensee-provided information.

There are no items from Generic Letter 82-05 for which schedules have not been determined. However, there are six items from Generic Letter 82-10 that, as noted in Attachment 2, have licensee schedules to be determined and are therefore not included in this Order. Some of the items addressed in this

Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining items is provided herein:

II.B.2 Plant Shielding

This item will be delayed by the licensee and will be completed by during the next refueling outage, i.e., the cycle 4/5 refueling outage. The cycle 4/5 refueling outage will start approximately December 1984. The delay was caused by a lack of manpower to complete the shielding modifications and motorize approximately 37 additional valves. A substantial amount of work will be completed this refueling outage but about 15 of the valves will not be completed prior to start up. The plant will be required to be shutdown to complete the modifications. The licensee will attempt to motorize the valves which would result in the highest personnel exposure during the present outage. However, if an accident were to occur, the remaining valves could be manually operated if required until final installation is complete.

II.F.1 (1–6) Post Accident Monitoring (6 items)

The licensee will delay four items, II.F.1 (1), (3), (5) and (6) until completion of the cycle 4/5 refueling outage which will begin approximately in December 1984. The other two items are complete. However, some of the completed equipment requires verification of its environmental qualification. The environmental qualification issue will be covered by separate rulemaking and is not part of this Order. The four items are being delayed due to a combination of vendor delivery problems and a lack of sufficient manpower to install the equipment during the current refueling outage. The plant must be shutdown to complete the installations. For the four items which are being delayed, there is presently installed instrumentation which could serve to provide appropriate measurements as a compensatory arrangement. Also, the licensee has installed internal hydrogen recombiners which also serve as a compensatory measure for the lack of a containment hydrogen monitor (II.F.1(6)).

III.D.3.4 Control Room Habitability

The licensee has completed the study of its control room habitability requirements. This item is being delayed until the cycle 4/5 refueling outage (which begins approximately in December 1984) due to the earliest anticipated delivery of qualified equipment. A majority of the items listed in the study are completed. There is adequate portable equipment for personnel protection located adjacent to the control room to serve as a compensatory measure until the final monitors are installed.

We find, based on the above evaluation, that: 1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; 2) there is good cause for the several delays as noted above; and 3) interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is Hereby Ordered Effective Immediately That the Licensee Shall:

Implement and maintain the specific items descibed in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A Request for Hearing Shall Not Stay the Immediate Effectiveness of this Order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 18th day of March, 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)[1]
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Cycle 4/5 refueling outage.
II.B.3	Post-accident sampling	do	Install upgrade post-accident sampling capability	Complete.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Do.
II.E.1.2	Aux FW Indication & Flow Indicator.	July 1, 1981	Modify instrumentation to level of safety grade	Do.
II.E.4.2	Containment Isolation Dependability.	do	Part 5—lower containment pressure setpoint to level compatible with normal operation.	Do.
II.E.4.2	do	do	Part 7—isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Cycle 4/5 refueling outage
		do	(2) Provide capability for effluent monitoring of iodine	Complete
		do	(3)Install in-containment radiation-level monitor	Cycle 4/5 refueling outage
		do	(4) Provide continuous indication of containment pressure.	Complete
		do	(5) Provide continuous indication of containment water level.	Cycle 4/5 refueling outage
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.1.3.1	Limit Overtime	10/1/82 per Gen. Ltr. 82-12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Gen. Ltr. No. 82-12, dtd. June 15,1982.	Complete.
I.A.1.3.2	[2]Minimum Shift Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	[2]Revise Emergency Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.D.1.3	Block Valve Test Program	do	Submit report of results of test program	Do.
II.K.3.30 & 31	[2]SBLOCA Analysis	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	[2]Staffing Levels for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	[2]Upgrade Emergency Support Facilities.	do	do	Do.
III.A.2.2	[2]Meteorological Data	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	(1) Review (2) Modify facility as identified by licensee study	(1) Complete. (2) Cycle 4/5 refueling outage.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not Part of Confirmatory Order.

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[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Wisconsin Electric Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-24 and DPR-27 which authorize the operation of the Point Beach Nuclear Plant, Units 1 and 2 (the facilities) at a steady-state power level not in excess of 1518 megawatts thermal. The facilities are pressurized water reactors (PWR) located at the licensee's site in Manitowoc County, Wisconsin.

II

Following the accident at Three Mile Island No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled from implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82-05 by letters dated April 26, July 20, and September 24, 1982. The licensee also responded to Generic Letter 82-10 by letter dated May 26, 1982. In these submittals, Wisconsin Electric Power Company confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 addressed thirteen and sixteen items, respectively. Of the ten items listed in Generic Letter 82-10 requiring a response, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of Commission Paper SECY 82-111, as amended; for Items II.K.3.30 and II.K.3.31 (one item), the staff review of the generic models under II.K.3.30 has not been completed, and II.K.3.31 is not required until one year after staff approval of the generic models.

Eleven of the 17 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The staff's evaluation of the licensee's delays for the remaining item is provided herein:

II.B.2 Plant Shielding

The licensee has identified several areas which will require the use of permanent and portable shielding. These include shielding of the C-59 control panel and 1B32 and 2B32 motor control centers, wall penetrations in the Auxiliary Building and additional shielding for the control room doors and windows.

The licensee has cited several reasons for delays to date in implementing the plant shielding requirements. They include rejection of inadequate vendor proposals as late as March 1981 regarding C-59 control panel shielding, the incorrectly performed control room shielding analysis by the licensee's consultant (identified during the NRC staff's control room habitability review)

and rejection of vendor proposals and design evaluations for moving the Unit 1 and shielding the Unit 2 safety injection lines. Further delays were encountered when, although preliminary studies indicated that the motor control centers were environmentally qualified, the original vendor's response in early 1982 indicated that shielding modifications were preferred to performance of a qualification analysis.

The licensee has installed the shielding for the wall penetration in the Auxiliary Building. Radiological design for the C-59 control panel and the two motor control centers has been completed and portable and permanent shielding recommendations are under review by the licensee's plant staff. The work request for the structural design of the seismic, permanent shielding has been forwarded to the licensee's consultant. Portable shiedling for the C-59 control panel and the control room windows and doors has been ordered.

While the licensee is working to complete all shielding modifications for Point Beach Nuclear Plant Units 1 and 2 by June 30, 1983, the licensee has committed to implementation by January 1, 1984. This is based on potential delays due to several areas of uncertainty. These include possible minor refinements to the portable shielding in order to be plant compatible, uncertainty in the response time for the structural consultant design of permanent shielding and unanticipated special construction delays related to the installation of permanent shielding.

The licensee reports that several interim compensatory measures have been implemented until shielding modifications can be completed. These include revision of plant emergency response procedures to specify necessary precautions prior to entry to the potential radiation problem areas. These procedures include strict radiation entry authorization, radiation surveying and monitoring, use of portable or temporary shielding and prior flushing of safety injection and residual heat removal lines to reduce background radiation.

The licensee states that none of the areas requiring the addition of permanent shielding require frequent or continuous personnel access. The motor control centers require access only for breaker maintenance. The C-59 control panel requires access only for operation of non-safety related auxiliary systems.

The licensee's analysis of portable shielding for the control room doors and windows indicate that shielding would not be required during a design basis loss of coolant accident (LOCA) or an accident involving partial melting of a few fuel assemblies. In the event of a major accident resulting in gross core damage and significant fission product release, control room operators will be instructed to avoid door and window openings.

II.F.1.3 High-Range Containment Radiation Monitoring System

The licensee has experienced delays in the implementation of this system due to cabling and qualification problems identified in October of 1981, equipment delivery delays (auxiliary and Foxboro racks, replacement cabling) power supply bus upgrade design and construction delays and Auxiliary Safety Instrumentation Panel design and procurement delays. Recently identified isolation circuit modifications require installation during a unit's outage. The licensee plans to complete installation of this system by the end of June 1983.

II.F.1.4 High-Range Containment Pressure

Pressure transmitters have been installed on Units 1 and 2 since the Unit 1 Fall 1981 refueling outage and the Unit 2 Spring 1982 refueling outage, respectively. The licensee reports that the delays in implementation are related to integrated cable pulling, delays in the delivery of Foxboro racks, delays in electrical power supply bus upgrade and Auxiliary Safety Instrumentation Panel design and procurement delays. The related protection system changes and control board modifications are outage dependent. The licensee plans to complete installation of this system by the end of June 1983.

II.F.1.5 Containment Sump Water Level

Transmitters are installed in both units and cable pulling is complete in the Unit 2 containment. Unit 1 cable will be installed in the Fall 1982 refueling outage. Installation of transmitter signal receivers will follow the installation of adjacent vital bus distribution panels.

The licensee reports the major delays in installation to be due to problems with the architect-engineer design of the transmitter suport and protection structure, delays in delivery of Foxboro racks, delays in the electrical bus upgrades and delays in Auxiliary Safety Instrumentation Panel design and procurement. The licensee expects installation of this system to be complete by the end of June 1983.

II.F.1.6 Containment Hydrogen Monitoring System

The licensee reports delays in the implementation of this system due to delays in obtaining an acceptable architect-engineer design for Unit 1's detector support platform, delays in Exosensor equipment qualification and delivery, delivery delays of auxiliary and Foxboro racks, delays in electrical power supply bus upgrades and delays of Auxiliary Safety Instrumentation Panel design and procurement.

Detectors were not received until the middle of the Unit 2 Spring 1982 refueling outage. Installation could not take place because of fire detection work in progress in the Unit 2 containment. The detectors are scheduled for installation during the Unit 1 Fall 1982 and Unit 2 Spring 1983 refueling outages. The microprocessors are scheduled to be received during the Fall of 1982. The licensee plans to complete system installation by the end of June 1983.

III.D.3.4 Control Room Habitability

By letter dated August 10, 1982, the NRC staff transmitted its evaluation of the licensee's proposals to provide acceptable control room habitability in accordance with the criteria in Section III.D.3.4 of NUREG-0737. The NRC staff approved the licensee's proposed modifications including installation of control room door and window portable shielding, installation of control room air supply line radioactive gas detection equipment, and obtaining additional self-contained breathing apparatus.

The licensee plans to complete modifications by January 1, 1983 with the exception of portable shielding which will be installed as scheduled in Item II.B.2 above.

We find, based on the above evaluation, that (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the several delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and should, therefore, be confirmed by Order.

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, It is Hereby Ordered Effective Immediately That the Licensee Shall:

Implement and maintain the specific items described as complete in the attachments to this Order. Incomplete items shall be completed by no later than the dates shown in the attachments (as described in the

licensee's submittals noted in Section III herein) and maintained thereafter.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the Federal Register. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A Request for Hearing Shall Not Stay the Immediate Effectiveness of This Order.

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland this 14th day of March, 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Jan. 1, 1984.
II.B.3	Post-accident sampling	do	Install upgrade post-accident sampling capability	Complete.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Do.
II.E.1.2	Aux FW Indication & Flow Indicator.	July 1, 1981	Modify instrumentation to level of safety grade	Do.
II.E.4.2	Containment Isolation Dependability.	do	Part 5—Lower containment pressure setpoint to level compatible with normal operation.	Do.
II.E.4.2	Containment Isolation Dependability.	do	Part 7—Isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors	Do.
		do	(2) Provide capability for effluent monitoring of iodine	Do.
		do	(3) Install in-containment radiation-level monitor	June 30, 1983.
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Do.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [1]
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd. June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Gen. Ltr. No. 82-12, dtd, June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift Crew [2]	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency Procedures [2]	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant-specific report on relief and safety valve program.	Complete.
II.D.1.3	Block Valve Test Program	do	Submit report on results of test program	Do.
II.K.3.30 & 31	SBLOCA Analysis [2]	1 yr after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels for Emergency Situations [2]	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency Support Facilities [2].	do	do	Do.
III.A.2.2	Meteorological Data [2]	do	do	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Jan. 1, 1984.

[1] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.
[2] Not Part of Confirmatory Order.

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Policy Statement on Regionalization

Introduction and Background. The U.S. Nuclear Regulatory Commission is seeking public comment on initiatives that would enlarge the role of its regional offices in implementing national programs in the areas of selected licensing and support functions that historically have remained centralized in NRC's headquarters organizations. The Commission's intent, which is embodied in the goals, plans and implementation strategy provided in the following discussion, has been to improve the quality of nuclear regulation by making regulation more effective in terms of service necessary to protect the health and safety of the public. The Commission expects regionalization to be evolutionary in nature and plans to maintain a keen interest in its execution.

For several years, NRC has conducted pilot programs to decentralize regulatory activities on a limited basis. Examples of such programs include resident inspection, selected materials licensing, reactor operator licensing, emergency planning, state liaison, and some operating reactor licensing actions. These pilot programs appear to have been successful and will continue to be evaluated.

For example, one of the most successful pilot programs is the resident inspector program. This pilot program showed that the benefits to be gained from using resident inspectors, instead of using only region-based inspectors, would be the increased knowledge and effectiveness of resident inspectors, the improved quality of interaction between NRC and licensees at the inspector level, and the improved contact between the local public and the resident inspector. Since the pilot program was completed, the resident inspection program has been fully implemented. Although the resident program is an example of decentralizing inspection from the regions to reactor sites, it is believed that similar benefits could be achieved by decentralizing some regulatory activities from headquarters to the regions.

A 2-year pilot program to decentralize selected materials licensing activities was conducted in Region III in March 1978 to March 1980. The overall experience of this pilot program has been good in that it has provided better coordination between the materials licensing staff and the regional inspectors and has provided better services to applicants and licensees. Based on this favorable experience NRC expects that similar benefits can be achieved through further decentralization.

Goals. As a result of these pilot programs and the recognition that NRC could improve the quality of regulation, the Commission developed in October 1981, basic policy goals for enlarging the role of NRC regional offices in regulatory activities beyond the scope of the pilot programs. The Commission's decision was intended to:

- Improve its coordination of licensing, inspection and enforcement activities at each facility
- Bring NRC nearer to state and local governments and the public by formalizing the role of regional offices to represent NRC in their regions
- Strengthen incident response capability by delegating certain responsibilities and authorities to the regions
- Upgrade the position of the NRC Regional Director

The initiatives associated with decentralizing certain headquarters regulatory activities to achieve the Commission goals have become identified as regionalization. These initiatives do not imply radical changes in nuclear regulation, but rather a new approach in internal management of NRC activities.

Plans and Implementation. To enlarge the role of regional offices, NRC first reorganized the Office of Inspection and Enforcement, transferred its five regional offices to direct control of the Executive Director for Operations (EDO), and upgraded the position of Regional Director to that of Regional Administrator. The position of Deputy Executive Director for Regional Operations and Generic Requirements (DEDROGR) was created simultaneously. In addition to his function as Chairman of the Committee to Review Generic Requirements (CRGR) the DEDROGR provides support to the EDO's managerial and supervisory responsibility for the regions.

Early in 1982, headquarters and regional offices developed planning assumptions and began to identify regulatory activities that could be decentralized. The planning assumptions centered on whether national regulatory programs could be more effective in serving the public and the regulated industry if some activities were implemented at the regional level. For example, the following are benefits that are expected to be derived from transferring specific Office of Nuclear Reactor Regulation activities to the regions:

- Regionalization of the activity would enable closer coordination between inspection and licensing activities and better communication with the licensees which, in turn, should produce more effective licensing and inspection programs
- Regional staff is sufficient in number and expertise, or can be made sufficient within budget constraints, for effective program implementation
- Sufficient written guidance exists, or can be developed, to assure uniform program implementation
- The activities require frequent interaction with licensees or local government representatives
- Transfer of the activity can be accomplished under existing legislation, or enabling legislation could be enacted

After the candidate activities were identified, deliberations within NRC resulted in a list of activities and estimates of dates by which they could be transferred to the regions. At a meeting open to the public in May 1982, the Commission was briefed on these plans and progress to date.

Pilot programs for both materials licensing and reactor operator licensing have been implemented in some regions in recent years. In 1982 the licensing activities for several categories of nuclear materials licenses were transferred from headquarters to Regions I and III. In 1982 Regions II and III were delegated the authority to license reactor operators, and about 350 operating reactor licensing actions were transferred to the regions for technical review and safety evaluation. In October 1982, NRC opened a Denver Field Office in Region IV that is responsible for uranium recovery licensing. In December 1982, limited authority for certain licensing actions for the Fort St. Vrain reactor was delegated to Region IV.

The progress of transfers to the regions that have been made to date reflects a carefully weighted decision to proceed with the decentralization policy in a deliberate phased manner. The more recent activities represent an expansion of NRC pilot programs and additional planning is underway to accommodate transfers of some regulatory activities in the future.

In the gradual expansion of agency programs in the regions, NRC plans tentatively to call for the future transfer of additional activities to the regions. These activities and the regions to which they could be transferred are described in the following paragraph. More detailed schedules for potential transfers of these activities are included in Enclosure 1.

During fiscal year (FY83), NRC plans to transfer license amendments for nonpower reactors to Regions I, IV, and V, and additional administrative and emergency preparedness duties to all regions. The technical review of additional operating power reactor licensing actions are planned for transfer to the regions, depending on the type of actions and the regional capabilities. In FY84, authority for certain licensing actions for eighteen operating power reactors is planned for transfer to Regions I, II, and III (six per region), licensing authority for new and renewal applications for nonpower reactors is planned for Regions I, IV, and V, and materials and reactor operator licensing are planned for the remaining regions. In FY85, licensing authority for all nonpower reactors and authority for certain licensing actions for six additional operating power reactors per region are planned to be transferred. Use of this phased approach will enhance smooth transition of activities and resources to the regions as they build up their licensing capabilities and will provide the opportunity for feedback on the effectiveness of the realignments.

Gradual expansion of regional operations will enable NRC to learn

from continuing experience in administering regionalized programs and to receive feedback from the public, state authorities, and the regulated industry on whether the intended benefits are being achieved. With the additional regulatory activity transfer, the headquarters organization will retain oversight of the decentralized decisionmaking to ensure regional consistency. Furthermore, the transfer will not involve generic safety programs such as unresolved safety issue resolution. In its efforts to bring about more effective regulation, the Commission welcomes comment so that its regional programs may be designed to provide optimum benefits. Gradual expansion will also enable NRC to be sensitive to the humanitarian needs of its employees whose functions will be transferred. For example, NRC is working to match preferences of headquarters volunteers with the skills needed in each region, to provide retraining of employees to meet regional skill needs and to allow enough lead time prior to transfer of personnel to enable them to plan relocation during a preferred time of the year.

Management Controls. NRC management controls will change as the preceding functions are decentralized. In accordance with the Energy Reorganization Act of 1974, the responsibility for the licensing programs is assigned to the directors of NRC program offices. This responsibility will not be transferred, but the authority to implement certain licensing activities will be delegated to Regional Administrators. The headquarters program offices will remain responsible for their overall programs, will continue to establish broad, uniform policies and guidance based on Commission and EDO direction, and will audit regional activities to assure consistent implementation of policy guidance and consistency in interpreting NRC requirements. If decisions at the regional level appear to be inconsistent in the application of regulatory requirements, licensees may appeal them either through the program offices, the Office of the EDO, or the Commission.

It is essential that the Commission maintain effective program oversight of decentralized decisionmaking to ensure consistency among regions. As such, the regions will become agents of the headquarters offices and will implement a variety of agency programs. For example, IE historically has established policy, defined the inspection and enforcement programs, and monitored their implementation in the regions. This management approach would continue and program offices with selected activities now being transferred to the regions would maintain responsibility for policy formulation, program development, and control of implementation. The Commission, through the EDO, intends to ensure consistency in regional operations. The management oversight actions are complemented by other mechanisms to maintain effective coordination, feedback, and information exchange among regions and headquarters. These include:

- Quarterly management meetings with the Commission, the EDO, Office Directors, and Regional Administrators
- Frequent meetings of Regional Division Directors and appropriate headquarters staff on a variety of issues
- Weekly conference calls with the DEDROGR, Office Directors, and Regional Administrators
- Development of Commission policy guidance
- Development of procedures and implementation of instructions to the regions
- Development of operating plans for each region
- Continuing oversight of the regions in implementing national programs

In addition to establishing programs and policies and performing program oversight for the activities delegated to the Regions, the NRC program offices will continue to perform regulatory functions which require a qualified technical staff in the headquarters. The headquarters offices will continue to perform high level waste repository systems licensing and for reactors all the safety, environmental and antitrust reviews of applications for Construction Permits (CP), Operating Licenses (OL), Standard Plants design approval and topical report approval. The NRC headquarters offices will also perform the activities associated with safety improvements. These include the resolution of Unresolved Safety Issues (USIs) and other generic issues, generic studies, the performance of risk and reliability assessments, and the systematic assessments of reactor operating experience. The development and approval of new regulatory requirements and modification of existing requirements resulting from the safety improvement efforts or other efforts will continue to be the responsibility of the headquarters offices. Relative to licensing actions associated with operating reactors, NRC headquarters will review and implement all actions during the first year after a reactor receives a full power operating license. In addition, headquarters offices will be responsible for implementing the Systematic Evaluation Program (SEP) for operating reactors and will be responsible for implementing certain generic licensing actions (e.g., requirements associated with pressurized thermal shock and steam generator tube integrity) on all reactors to which they apply.

As reactor license review activities gradually decrease over the next several years, the activities of technical review organizations in headquarters will shift toward technical review in support of the regions. Thus, headquarters will maintain the technical expertise necessary to accommodate the changing character of its workload.

Guidance to Those Commenting. The Commission solicits public comment on both the scope and approach outlined in this Draft Policy Statement on Regionalization as well as the specific items included for possible implementation in the future. Comments received will be reviewed and carefully considered by the Commission in connection with the development of the final policy statement on regionalization. NRC staff has scheduled public meetings in the regions in order to explain the expanding role of the regions to licensees and interested persons and to solicit comments.

The meetings are scheduled as follows:

Tuesday, March 29, 1983—1–4:30 p.m.:
Atlanta Airport Marriott Hotel, 4711 Best Road, College Park, GA 30337

Tuesday, April 5, 1983—1–4:30 p.m.:
Amfac Hotel, East Tower, Dallas/Ft. Worth Regional Airport, Dallas, TX 75261

Wednesday, April 6, 1983—9 a.m.–12:30 p.m.:
Sheraton O'Hare, 6810 North Mannheim Road, Rosemont, IL 60018

Monday, April 11, 1983—8:30 a.m–12 noon:
San Francisco Airport, Hilton Hotel, San Francisco, CA 94128

Thursday, April 14, 1983—1–4:30 p.m.:
Holiday Inn, 4th and Arch Streets, Philadelphia, PA 19106

Written comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments should be submitted by May 16, 1983.

For Further Information Contact: Edward B. Blackwood, Executive Coordinator for Regional Operations, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301/492–4359).

The additional views of Commissioners Ahearne and Asselstine and of Chairman Palladino follow:

Samuel J. Chilk,

Secretary of the Commission.

Additional Views of Commissioner Ahearne

I have strongly supported moving some NRC activities from Headquarters into the field and strengthening the regional offices of the NRC. Whether these actions are described as decentralization, regionalization, or by some other name, the basic steps and purposes are the same.

The NRC located in Washington is increasingly isolated from the major activities which form the reason for this agency. Since the NRC was formed there has been a steady increase in NRC activity at operating reactors, at other licensee sites, and in the interaction with state and local governments. The resident inspector program, described in the policy statement, has shown the great value of having someone more closely connected with the local situation. Regional headquarters are obviously not directly local—since in come cases they may be many hundreds of miles away—but they are local in perspective, rather than the oft felt Olympian height of Washington, D.C.

Regionalization should produce a better two-way interaction with state and local government and with the licensees. Regional people are more approachable, more reachable. This better interaction will occur even with reactor licensees—not necessarily with the policy makers, e.g., the chief executive officers, but certainly with the lower and middle management, the ones who actually run the plants.

In a section deleted by the Commission, the EDO had pointed out that in addition to the criteria listed which were used to identify activities proposed for transfer[1] "[T]he changing nature of the nuclear reactor regulation workload was also considered. The major effort associated with nuclear power plant regulation is projected to shift from licensing new plants to maintaining the licenses of operating reactors." As the NRC evolves into an agency whose basic business is monitoring operating reactors, there will be more activity in the field. This will require strengthening the technical competence in the field independent of how one believes the Headquarters should be staffed.

Given this perspective, I believe the NRC appropriately has taken three actions: (1) We have upgraded the Directors of the field offices, both in civil service rank and in title, so they are now equivalent to the major office directors in Washington and report, as do office directors, to the Executive Director for Operations. (We are also attempting to upgrade the staff positions in the field.) (2) We have been expanding functions done in the field—in the past it has included the pilot programs for materials licensing and operator licensing. And (3) we are strengthening the technical competence in the field offices.

There are hazards, as has been pointed out by some Commissioners and by the ACRS. One hazard is the potential loss of technical capability in Washington. This should not be serious. Even under the proposal to shift licensing actions for operating reactors to the field, we would still retain in Washington licensing reviews for new reactors, unresolved safety issues, and generic issues—the really tough and broad questions. The proposed regionalization program has been criticized as stripping bare the core of technical competence of NRR. However, in 1982 there were 7 staff years devoted in the field to reactor regulation and 731 in Washington. Under the regionalization proposal, in 1985 there would be 134 in the field and 575 in Washington. While this is a very large increase in the field, it still retains approximately 80 percent of the staff years of nuclear regulation in Washington. This hardly should cripple the core of technical competence. A second problem could be inconsistency among the regions. The appropriate way to handle this potential is, first, by keeping major actions in Washington, as we already are doing in the enforcement area. Second, we must make the Headquarters offices establish policy. Under regionalization Headquarters offices would establish policy, which field offices would implement. A major weakness of the NRC, from the Commission on down, has always been (as both the GAO and the NRC Special Inquiry Group noted) its reluctance to establish policy. The NRC has always been weak on policy and strong on *ad hoc* case-by-case solutions. We must change, and the offices must establish policy rather than treat every issue as a unique issue.

Consequently, I believe that the organization, which was appropriate at the birth of nuclear power and for the regulation of reactors when most of the business of the agency was reviewing applications during the licensing process, is no longer an appropriate organization for an agency whose predominant role will be the reviewing of licensees that are scattered all over the country. Because of the technical complexity of some of the problems the NRC will always face, it is appropriate to maintain a central core of high competence in Washington. However, I believe that it is past time for the NRC to begin to build up its regional operations and I think that the proposed steps are sound.

Additional Views of Commissioner Asselstine [2]

I support the issuance of this Policy Statement on Regionalization as a means for describing the regionalization program adopted by the Commission and for obtaining comments from the public, the states and the industry on the need for, advantages and disadvantages of the various elements of this program. The Commission's stated intent in the policy statement is to make nuclear regulation more effective. I certainly agree with that objective, and I support most of the initiatives that enlarge the role of the regional offices to accomplish that purpose. Among the initiatives that I support as being appropriate functions of the regional offices are: regulation of uranium mills, emergency planning reviews, selected materials licensing, and state liaison.

However, I have serious reservations about another element of the Commission's regionalization plan—the transfer of certain licensing authority for operating power reactors for the headquarters Office of Nuclear Reactor Regulation to the regional offices. It appears to me that the transfer of this responsibility to the regional offices has three potential disadvantages that may well have a negative impact on the effectiveness of our regulatory program for operating reactors.

First, this element of the Commission's regionalization program is likely to create new barriers to reaching sound licensing decisions for operating reactors. The transfer of operating reactor licensing authority to the regional offices will place the licensing authority with individuals who are geographically far removed from this Agency's core of technical expertise on reactor safety matters. At the same time, the regional licensing personnel will be expected to continue to rely on the headquarters core technical staff for the bulk of the technical analysis needed to support the regional licensing activities. This geographical separation of those responsible for licensing and those responsible for the necessary technical support work can be expected to create new obstacles to assuring that the technical analysis needed to support operating reactor licensing decisions is carried out in an accurate, effective and timely manner.

Indeed, the Commission has long recognized that similar problems exist in other areas of our regulatory programs as a result of the dispersed location of our headquarters staff in several different buildings in the Washington, D.C. metropolitan area. Given the far greater geographical separation, I would expect these problems to be much more acute in the case of the regionalization of operating reactor licensing authority.

In addition, the transfer of operating reactor licensing authority to the regional offices will break up and disperse the pool of experience that presently exists within the collective group of operating reactor project managers now located at headquarters. This reduced ability of project managers to draw readily upon the collective experience of other project managers will be compounded by the potential loss to the agency of a number of experienced and knowledgeable project managers who may be unwilling or unable to relocate from Washington, D.C. to one of our regional offices. Taken together, these effects of regionalization could well hinder the Agency's ability to reach sound licensing decisions for operating reactors.

Second, the transfer of operating reactor licensing authority to the regional offices is likely to introduce new inefficiencies in nuclear reactor regulation that may be unjustified in light of present budget limitations and that may adversely affect other NRC safety responsibilities. Under the present NRC licensing approach, operating reactor licensing activities are carried out by

[1] The policy statement now describes these criteria as benefits. However, the EDO described them as criteria used to identify activities to be proposed for transfer.

[2] Commissioner Gilinsky agrees entirely with Commissioner Asselstine's additional views.

one headquarters office—the Office of Nuclear Reactor Regulation. Under the Commission's regionalization program, the regional offices would assume licensing responsibility for operating reactors, but the headquarters Office of Nuclear Reactor Regulation would be required to audit the performance of the regional offices. In effect, the headquarters office would be required to inspect the licensing work done by the regional office and verify its adequacy. This approach inevitably will require more staff resources than the present approach. If additional staff positions cannot be provided to the regional offices, this will reduce the level of regional staff effort in other areas, such as inspection and enforcement activities for operating reactors. Indeed, our regional administrators have stated that the development and conduct of regional program audits thus far are already tending to shift resources away from inspection activities.

Third, the transfer of operating reactor licensing authority to the regional offices is likely to create new difficulties in assuring uniformity and consistency in all licensing decisions for operating reactors. Licensing decisions previously made by one centralized headquarters office will now be made by five separate regional offices. The Commission's policy statement describes in only general terms the management controls, such as program audits by the headquarters office, that would be used to assure uniformity and consistency among the regions. Absent a more detailed specification of how these controls will operate, it is difficult to determine whether regionalization of these functions can ensure a uniform application of safety principles at the operating nuclear power plants spread throughout the five regions. Nor does our experience with regionalization thus far in other areas provide great confidence in our ability to ensure uniformity in the operating reactor licensing area. Our experience with regionalization in other areas of nuclear regulation is still quite limited, and operating reactor licensing issues are both more complex and less settled than is the case with other responsibilities that are being transferred to the regional offices.

Taken together, I believe that these disadvantages associated with the transfer of operating reactor licensing authority raise serious concerns about this element of the Commission's regionalization program. At the same time, I fail to see any clear and overriding safety benefit to be obtained by transferring these functions to the regional offices. I hope that the public meetings to be held on this policy statement, as well as the public comment period, will focus attention on these concerns as well as on the following broader questions related to regionalization:

1. What is the problem or issue that regionalization is attempting to solve, and are there other remedies?

2. Does regionalization improve or detract from the protection of the public health and safety, and what are the considerations that lead to that conclusion?

3. How does regionalization affect the effectiveness and efficiency of nuclear reactor regulation?

4. What controls are needed to ensure a uniform application of safety principles?

5. To what extent will safety reviews and reactor inspections be vulnerable to adverse trade-offs if both responsibilities are assigned to the same office?

In that regard, I note that our Advisory Committee on Reactor Safeguards has recently asked the staff to address a series of similar concerns regarding regionalization. I believe that the ACRS concerns can also serve as a useful basis for public comment on regionalization, and I have attached a copy of the ACRS letter to my views for this purpose. I also agree with the advisory Committee on Reactor Safeguards that regionalization represents a major shift in the manner in which NRC will address safety related issues, particularly for operating reactors.

The Commission's regionalization program calls for the transfer to the regional offices of licensing authority for eighteen operating power reactors in fiscal year 1984 and for an additional thirty operating power reactors in fiscal year 1985. Given the above concerns, I believe that this rapid a transfer of operating reactor licensing authority is unwise. I therefore would limit the transfer of operating reactor licensing authority during fiscal years 1984 and 1985 to a pilot program involving a limited number of power reactors. This would provide an opportunity to gain some experience with the approach of regionalizing safety responsibilities for power reactors, and would provide the opportunity for an informed judgment on the advantages and disadvantages of this approach, before committing to a major transfer of authority in this area.

Nuclear Regulatory Commission,
Advisory Committee on Reactor Safeguards.

February 15, 1983.

Subject: Regionalization of NRC Staff Activities

Mr. William J. Dircks, Executive Director for Operations, Washington, DC 20555.

Dear Mr. Dircks:

During the Committee's 274th meeting, February 10–12, 1983, the ACRS Policy and Procedures Subcommittee reported to the CRS regarding its February 8, 1983 meeting with representatives of the NRC staff to discuss proposed Commission plans for the expanded regionalization of NRC staff licensing activities. These discussions have left the committee with several concerns regarding the impact that this decentralization may have on the safety of nuclear facilities.

The members of the committee have asked that I invite you and Mr. Victor Stello to our March meeting to discuss regionalization and, in particular, specific areas of concern/interest regarding this matter. This discussion will better inform the Committee in the preparation of related comments that the committee anticipates forwarding to the Commission regarding this matter.

I have listed below many, although not necessarily all, of the matters that the Committee would like to discuss:

1. Basis for regionalization.—The Members were unable to elicit a convincing safety-related rationale regarding the basis for the proposed expansion of regional activities and would like an opportunity to discuss this matter further to develop a better understanding of the basis for this proposed change.

2. How are these changes expected to impact on reactor safety? The decentralization of a competent body of technical talent may have a negative effect.

Several more specific questions are presented below:

—How will technical competence of the NRC headquarters staff be maintained once technical decision making is dispersed to regional offices?

—When new, unanticipated technical issues arise, will the headquarters staff or regional offices handle them initially? How will direction be provided to prevent overlapping and possible conflicting activities?

—How will existing channels of communication be altered with respect to flow of information to and from the regional offices? For example, how will the interpretation of safety research results and other technological developments be promulgated to the regional offices in support of their technical decision making?

—How will an appropriate degree of consistency be maintained among the different field offices to avoid differences in interpretation of NRC regulations and differences in policy/judgment/attitude among regional directors? What are the standards of consistency to be used in judging how well regional offices function? What mechanisms will exist for licensees to appeal substantive inconsistencies, if they do occur, without concern regarding punitive action?

—What quality assurance mechanism will be in place to monitor and control the performance of the regional offices? How will overly rigid or overly permissive performance by individual offices be recognized and addressed?

—What will be the dividing line for those technical decisions to be made by the regional offices and those to be made by the headquarters staff? Will these be based on safety significance, generic versus plant specific considerations, scheduling, or other factors?

—What distribution of technical talent will be needed in NRC headquarters and the regional offices to deal with the wide variety of technical issues which are already known to exist and those which may develop in the future? What is the basis for this allocation of resources? Recognizing that this shift is partly to accommodate an increased emphasis on support of plant operations versus licensing actions, what action will be taken to reorient and/or redirect the activities of headquarters and regional personnel in this direction?

—In view of the observations of the NAS/NRC Committee on FAA Airworthiness Certification Procedures (Reference 1) that the regional structure of the FAA has contributed to a lesser technical competence in the FAA, and their recommendation regarding the need for a strong centralized technical staff to accomplish various FAA's regulatory functions, what are the differences between FAA and NRC regulatory responsibilities, functions or procedures that

make decentralization of technical functions appropriate for NRC?

—What plans have or will be made for a satisfactory interface of the ACRS with the regional offices to be sure that the Committee can fulfill its statutory responsibilities?

Members of the Committee consider this matter a major shift in the manner by which NRC will address safety related issues, particularly for operating reactors, and the impact it will have on ACRS activities. We would like an opportunity to discuss the topics noted above with you during our 275th meeting (March 10–12, 1983). If you will inform R. F. Fraley, ACRS Office regarding your availability, he will make arrangements for this exchange of information/views at a mutually convenient time.

Sincerely,

J. J. Ray,

Chairman.

Reference

1. Improving Aircraft Safety, FAA Certification of Commercial Passenger Aircraft, promulgated June 24, 1980.

Additional Views of Chairman Palladino

I submit the following observations concerning Commissioner Asselstine's views. Commissioner Asselstine, while supporting the issuance of this Policy Statement, has expressed reservations about the plan to transfer certain licensing authority for operating power reactors. This licensing authority relates to issuance of license amendments for operating plants by the Regional Offices, a function now exercised by the Office of Nuclear Reactor Regulation.

One concern that has been expressed is that regionalization will result in a geographical separation of the individuals to whom licensing authority will be transferred and the headquarters technical staff who will continue to provide technical analysis. It is my belief that this potential disadvantage will be outweighed by the advantage of moving the licensing authority geographically closer to the licensees. I believe that any new obstacles that might be created will certainly be smaller than obstacles that currently exist that inhibit efficient and timely resolution of our backlog of licensing actions.

With respect to the concern about the potential loss to the agency of project managers, while I am not insensitive to the impact that regionalization can have on our employees, my primary objective is to implement a better management approach in dealing with out responsibilities.

In response to the concern that transfers of functions could reduce staff effort by the regions in their current activities, it is planned to increase regional staff resource levels commensurate with the additional functions they must perform. I do not expect or advocate any decreased levels of resources to be devoted to activities such as inspection and enforcement. I do not see this as a potential problem with respect to regionalization. It is my expectation that many of the backlog items that have been ignored for many years will finally be completed.

Difficulties in achieving uniformity and consistency in licensing decisions are cited as a concern. I believe that strong oversight by headquarters offices will alleviate this potential problem. In addition, one historical problem caused by the attempt to achieve absolute uniformity is the reluctance to account for plant specific characteristics in applying generic resolutions to problems. I believe that the regional offices will be better equipped to look at these plant-by-plant differences and that a better balance will be achieved in applying the results of generic recommendations.

Commissioner Asselstine states that he fails to see any clear and overriding safety benefit to be obtained by the transfer of licensing authority to the regions. The goal was not to achieve a safety benefit per se. Rather, regionalization is an attempt to achieve better management efficiency, and I believe it should be carried out so long as there is no *reduction* in safety associated with the transfers of functions.

My last comment regards the inclusion of the ACRS letter to the staff in Commissioner Asselstine's additional views. Since the ACRS serves as an advisory body to the Commission, I question the desirability of publishing a letter that does not present an ACRS position and does not represent the final views of the ACRS to the Commission. Publishing the letter with this Policy Statement can result in misrepresentations of the Committee's views.

Function (Headquarters' Office)	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985
Headquarters' Functions To Be Decentralized				
1. Operating Reactor licensing actions—technical review (NRR)	All regions (532)	All regions (400)	All regions (500)	All regions (615).
2. Licensing authority for operating power reactors [1] (NRR)		Region IV: 1 reactor	Regions I, II, III: 6 reactors per regions; Region IV: 1 reactor.	Regions I, II, III: 12 reactors per region; Region IV: 7 reactors; Region V: 6 reactors.
3. Licensing authority for TMI–2 cleanup [2] (NRR)			Region I	Region I.
4. Licensing authority for operating non-power reactors (NRR)		All non-power reactors in Regions I, IV, V.	All non-power reactors in all regions.	All non-power reactors in all regions.
5. Licensing authority for new and renewal applications for non-power reactors (NRR).			All non-power reactors in Regions I, IV, V.	Do.
Headquarters' Functions To Be Regionalized				
6. Administer reactor operator license examinations (NRR)	Region III [3]	Region II, III [3]	All regions	All regions.
7. Uranium mill tailings (NMSS) [4]		Region IV	Region IV	Region IV.
8. Authority to issues materials licenses (NMSS)	5 types of high volume licenses, Regions I, III.	5 types of high volume licenses, All regions.	10 types of high volume licenses, All regions.	10 types of high volume licenses, All regions.
9. Issue safegards license amendments which do not decrease effectiveness for reactors and SNM facilities (NMSS).		Regions I, II	All regions	All regions.
10. Conduct transportation route surveys and review contingency plans for spent fuel and Category 1 SNM shipments (NMSS).			Region III	Do.
11. Perform closeout surveys and termination of uranium fuel fabrication licenses (NMSS).		All regions	All regions	Do.
12. Maintain oversight of 10 CFR 70 licenses for advanced fuel (Pu) plants that have initiated decontamination and decommissioning activities. (NMSS).		do	do	Do.
13. Issue proposed civil penalties. [5] (IE)	All regions	do	do	Do.
14. Issue orders and make 10 CFR 2.206 decisions consistent with the transfer of licensing and enforcement authority from IE, NRR, and NMSS. (IE, NRR, and NMSS).		Regions I, IV, V	do	Do.
15. Conduct special licensing activities for operating reactors after emergency preparedness appraisal and reports. (IE).		All regions	do	Do.
16. Observe and appraise the annual emergency preparedness exercises for operating reactors. (IE).	All regions [6]	do	do	Do.
17. Provide legal assistance consistent with the transfer of functions to review severity level III violations, proposed civil penalties and orders, 2.206 decisions, material licenses mill tailings licenses, and reactor licensing. (ELD).	All regions	All regions	do	Do.
18. Provide state agreement officer. (SP)	Regions II, IV	Regions I, II, IV, V	Regions I, II, IV, V	Regions I, II, IV, V.
19. Continue state liaison function	All regions	All regions	All regions	All regions
20. Perform license fee billings for materials licensing and inspection activities. (ADM).		Regions I, III	do	Do.

Function (Headquarters' Office)	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985
21. Perform budget formulation/execution and management information reporting activities.	All regions	All regions	do	Do.
22. Perform various administrative support services		All regions	do	Do.

[1] NRR will retain licensing authority for certain types of operating power reactor licensing actions (e.g., pressurized thermal shock, steam generator inspection and repair, etc.). NRR will identify and maintain a current list of these items.
[2] The transfer of this function remains uncertain until the licensee funding sources are confirmed and major core removal activities begin.
[3] NRR will provide for contract examiner assistance.
[4] To be implemented in accordance with W. Dircks' August 2, 1982 memorandum on establishing the Denver Field office.
[5] With IE concurrence.
[6] With IE assistance.

Agenda for Public Meeting on Decentralization (one-half day)

Call to Order and Introduction of Speakers:
Regional Administrator
Opening Remarks:
Executive Director for Operations
Inspection and Enforcement Programs:
R. C. DeYoung
Fuel Cycle and Materials Programs:
J. G. Davis
Reactor Programs:
H. R. Denton
State Programs:
G. W. Kerr
Administrator's Remarks:
Regional Administrator
Break (20 minutes):
Discussion Panel for Questions and Comments from the Floor:
EDO, Office Directors, and Administrators

[FR Doc. 83-7879 Filed 3-24-83; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Positions Placed or Reduced Under Schedules A, B, and C

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on February 25, 1983 (48 FR 8165). Individual authorities established or revoked under Schedules A, B, or C between February 1, 1983 and February 28, 1983 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

Department of Justice

Staff positions, GS-15 and below, to assist in the resettlement of Cuban and Haitian entrants. Employment under this authority may not exceed September 30, 1984. On March 6, 1983, this function was transferred from Department of Health and Human Services. Approved February 22, 1983, to be effective March 6.

Department of Agriculture

Positions of Meat Acceptance Specialists, GS-11 and below and Raisin Inspectors, GS-9 and below. Effective February 8, 1983.

Department of Transportation

Not to exceed 25 positions of Marine Traffic Controller (Pilot), at grade GS-11 and below for temporary, intermittent or seasonal employment in the State of Louisiana. Temporary appointments may not exceed 1 year, and temporary appointees may be reappointed under this authority only after a break in service of at least 6 months. Intermittent or seasonal employment may not exceed 180 working days in a service year, except that this limitation for an individual employee may be extended to 220 days when necessitated by emergencies caused by unusual flooding conditions or high river stages. Effective February 8, 1983.

The following exceptions are revoked:

Department of Agriculture

Positions of Agricultural Commodity Graders (Tobacco) and Clerks, in the Agricultural Marketing Service. Positions are now covered by 213.3113(f)(1). Effective February 9, 1983.

In the Food Safety and Inspection Service, positions of Agricultural Commodity Graders (processed fruits and vegetables). Positions are now covered by 213.3113(f)(1). Effective February 9, 1983.

In the Food Safety and Inspection Service, temporary and intermittent positions of Agricultural Commodity Graders (dairy and poultry). Positions are now covered by § 213.3113(f)(1). Effective February 9, 1983.

Coverage of field enumerators and supervisors and collectors of the Farmers Home Administration eliminated from § 213.3113(a)(5). Effective February 23, 1983.

International Trade Commission

One position of Secretary to the Commission. Effective February 8, 1983.

Department of Health and Human Services

Staff positions, GS-15 and below, for an emergency staff to assist in the resettlement of Cuban and Haitian entrants. On March 6, 1983, this function was transferred to the Department of Justice. Approved February 22, 1983, to be effective March 6, 1983.

Schedule C

The following exceptions are established:

Department of Agriculture

One Special Assistant to the Assistant Secretary for Administration, Office of the Secretary. Effective February 4, 1983.

One Special Assistant to the Assistant Secretary for Administration, Office of the Secretary. Effective February 4, 1983.

One Special Assistant to the Assistant Secretary for Administration, Office of the Secretary. Effective February 4, 1983.

One Confidential Assistant to the Assistant Secretary for Science and Education, Office of the Secretary. Effective February 7, 1983.

One Confidential Assistant to the Administrator, Agricultural Marketing Service. Effective February 8, 1983.

One Confidential Assistant to the Administrator, Congressional Affairs, Animal and Plant Health Inspection Service. Effective February 9, 1983.

One Secretary (Typing) to the Secretary of Agriculture, Office of the Secretary. Effective February 10, 1983.

One Private Secretary to the Administrator, Office of the Administrator. Effective February 17, 1983.

One Confidential Assistant to the Manager, Federal Crop Insurance Corporation. Effective February 17, 1983.

Department of the Army

One Staff Assistant to the Special Assistant to the President, Office of Public Liaison. Effective February 4, 1983.

Department of Defense

One Executive Assistant to the Director, Small and Disadvantaged Business Utilization. Effective February 2, 1983.

One Special Assistant to the Deputy Assistant Secretary of Defense (Reserve Affairs), Office of the Deputy Assistant Secretary of Defense (Reserve Affairs). Effective February 15, 1983.

One Special Assistant for Emergency Planning to the Director, Mobilization Planning and Requirements. Effective February 15, 1983.

One Private Secretary to the Deputy Under Secretary of Defense for Research and Engineering (Strategic and Theater Nuclear Forces). Effective February 28, 1983.

Department of Education

One Confidential Assistant to the Deputy Assistant Secretary, Office of Elementary and Secondary Education. Effective February 17, 1983.

One Special Assistant to the Assistant Secretary for Legislation and Public Affairs. Effective February 17, 1983.

One Personal Assistant to the Assistant Secretary for Legislation and Public Affairs. Effective February 18, 1983.

One Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education. Effective February 18, 1983.

Department of Energy

One Statt Assistant to the Secretary of Energy, Office of the Secretary. Effective February 28, 1983.

Department of Health and Human Services

One Special Assistant to the Assistant Secretary for Planning and Evaluation. Effective February 2, 1983.

One Special Assistant to the Assistant Secretary for Legislation, Office of the Assistant Secretary for Legislation. Effective February 4, 1983.

One Special Assistant to the Deputy Assistant Secretary for Population Affairs. Effective February 18, 1983.

One Director, Congressional Affairs Staff, Office of the Associate Administrator for Policy. Effective February 28, 1983.

Department of Housing and Urban Development

One Special Assistant to the Regional Administrator in Newark, New Jersey. Effective February 14, 1983.

Department of Interior

One Special Assistant to the Executive Assistant, Office of the Secretary. Effective February 4, 1983.

One Special Assistant to the Assistant Director for State Liaison, Office of Water Policy. Effective February 8, 1983.

One Supervisory Attorney-Advisor (Legislation), Office of the Secretary. Effective February 14, 1983.

One Special Assistant to the Director, Office of Surface Mining. Effective February 28, 1983.

One Special Assistant to the Director, Office of Congressional and Legislative Affairs. Effective February 28, 1983.

Department of Justice

One Special Assistant to the Director, Bureau of Justice Statistics. Effective Feburary 4, 1983.

One Confidential Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention. Effective February 8, 1983.

One Attorney (Advisor), Civil Division. Effective February 14, 1983.

One Special Assistant to the Assistant Attorney General, Tax Division. Effective February 17, 1983.

One Special Assistant to the Assistant Attorney General, Tax Division. Effective February 28, 1983.

One Personal Assistant to the Director, Bureau of Justice Statistics. Effective February 28, 1983.

Department of Labor

One Special Assistant to the Assistant Secretary, Employment and Training Administration. Effective February 4, 1983.

One Special Assistant to the Assistant Secretary for Policy. Effective February 4, 1983.

One Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration. Effective February 10, 1983.

One Private Secretary to the Chief of Staff, Office of the Secretary. Effective February 28, 1983.

One Special Assistant to the Secretary of Labor, Office of the Secretary. Effective February 28, 1983.

Department of State

One Staff Assistant to the Ambassador-at-Large, Office of the Ambassador-at-Large/Special Middle East Negotiator. Effective February 1, 1983.

One Special Assistant to the Ambassador-at-Large, Office of the Ambassador-at-Large for Cultural Affairs. Effective February 10, 1983.

One Special Assistant to the Ambassador-at-Large, Office of the Ambassador-at-Large/Special Adviser to the Secretary of State for Non-Proliferation and Nuclear Affairs. Effective February 23, 1983.

One Secretary (Typing) to the Chief of Protocol, Office of the Chief of Protocol. Effective February 28, 1983.

Department of Transportation

One Special Assistant to the Regional Administrator in New York, New York, Urban Mass Transportation Administration. Effective February 4, 1983.

One Director, Office of Public Affairs. Effective February 8, 1983.

One Minority Business Resource Officer, Office of Small and Disadvantaged Business Utilization. Effective February 15, 1983.

Department of Treasury

One Confidential Assistant to the Director, Office of Revenue Sharing. Effective February 8, 1983.

One Executive Assistant to the Director, Office of Congressional and Public Affairs. Effective February 28, 1983.

Action

One Special Assistant to the Director. Effective February 14, 1983.

One Special Assistant to the Director. Effective February 23, 1983.

Agency for International Development

One Confidential Assistant to the Associate Deputy Administrator, Office of External Relations. Effective February 7, 1983.

Executive Office of the President

One Legislative Assistant to the Assistant Director for Legislative Affairs, Office of Management and Budget. Effective February 4, 1983.

One Staff Assistant to the Director, Office of Management and Budget. Effective February 10, 1983.

One Secretary (Steno) to the Assistant Director for Legislative Affairs. Effective February 24, 1983.

Export-Import Bank of the U.S.

One Secretary (Stenography) to the Director. Effective February 10, 1983.

General Services Administration

One Special Assistant to the Director of Organization and Personnel. Effective February 17, 1983.

Interstate Commerce Commission

One Confidential Assistant to the Commissioner, Office of Commissioner Gradison. Effective February 28, 1983.

National Credit Union Administration

One Secretary (Typing) to the General Counsel. Effective February 17, 1983.

Office of Personnel Management

One Special Assistant to the Associate Director for Administration Group. Effective February 4, 1983.

Pension Benefit Guaranty Corporation

One Secretary (Stenography) to the Executive Director. Effective February 23, 1983.

One Secretary (Stenography) to the Executive Director. Effective February 25, 1983.

U.S. Arms Control and Disarmament Agency

One Private Secretary to the Deputy Director, Office of Administration. Effective February 14, 1983.

U.S. Information Agency

One Staff Assistant to the Director, Office of Public Liaison. Effective February 4, 1983.

One Special Assistant to the Associate Director for Educational and Cultural Affairs. Effective February 23, 1983.

Veterans Administration

One Confidential Assistant to the Special Assistant, Office of the Administrator. Effective February 4, 1983.

[5. U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218]

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-7722 Filed 3-24-83; 8:45 am]

BILLING CODE 6325-01-M

Privacy Act of 1974; Proposed Routine Use for an Existing System of Records

AGENCY: Office of Personnel Management.

ACTION: Proposal for new routine use to be added to an existing system of records.

SUMMARY: The purpose of this document is to propose a new routine use for the Office's Civil Service Retirement and Insurance Records System (OPM/CENTRAL–1). This routine use, once in effect, will permit the discretionary disclosure of data from the Office's Civil Service Retirement and Insurance File to state agencies that provide assistance or other services to individuals to the extent that the disclosure is necessary in order that the appropriate state component take legal, administrative, or corrective action to improve program integrity. This disclosure of information will be used in a state's attempt to eliminate waste, fraud, and abuse in its benefit recipient programs.

DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received by April 25, 1983. Unless a notice to the contrary is published, this routine use will become effective 30 days after the end of the comment period.

ADDRESS: Address comments to: Assistant Director for Pay and Benefits Policy, Office of Personnel Management (Room 4351), 1900 E Street, N.W., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Glass, Technical Analysis Division; (202) 632–9677.

SUPPLEMENTARY INFORMATION: Based on recent correspondence and communication among the Office of Personnel Management, the Inspector General's Office at the Department of Labor, and the states of New York and Florida, the President's Council on Integrity and Efficiency (PCIE) Long Range Computer Matching Group has determined that it is prudent to identify Federal retirees on a government-wide basis who are improperly receiving state government benefits or have delinquent debts.

These computer matches will be done in similar fashion to the matches described in the proposed routine use published in the **Federal Register** on February 26, 1982 (47 FR 8438). That routine use permitted OPM to disclose data from the Retirement Annuity Master File to Federal agencies for use in duly authorized matching programs. Based in part on the Federal government experience concerning matching projects, various states perceive similar advantages in terms of program efficiency and elimination of fraud and abuse. One approach is to compare their benefit and delinquency files with information maintained by the Federal government.

The most efficient way of comparing individuals who are recipients of various assistance programs with those who are retired Federal civilian employees is for OPM to provide to the states conducting these various assistance programs, an extract of its Retirement Annuity Master File limited to the relevant data elements.

The disclosure of individual data from the Civil Service Retirement and Insurance File to the states will be for the purpose of conducting computer matching programs. The matches will be conducted in accordance with the Office of Management and Budget's revised "Guidelines for Conducting Matching Programs" (47 FR 21656; May 19, 1982).

During OPM's participation in the formulation of this computer matching project, it was the Office's position that information could be disclosed from the Retirement and Insurance File only if the various recipient states agreed to strictly adhere to OMB's Matching Guidelines. The participating states will be required to submit written requests for the Office's information, including written assurance to the Office that the privacy protections expressed in the Matching Guidelines and other specific protection provisions will be followed. Any subsequent releases for computer matching purposes to local jurisdictions within the states will be subject to the same written assurances to the Office.

Information on individuals that may be disclosed to the various matching states through this routine use includes: The name, social security number, date of birth, sex, OPM claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and zip code of all Federal retirees and survivors. The Office retains the authority under the proposed routine use to withhold specific data elements from a requesting state if it is believed that the particular elements are not germane to the particular benefit program.

Upon receipt of this information or a portion thereof, and after compliance with the OMB's Guidelines on Matching Programs and written assurances to the Office, the state will conduct a computer match against its various files involving benefit recipients. For each matching record, the state (or local jurisdiction) will conduct a more thorough review of the recipient's status as to the eligibility for assistance and any debt that is owed to that state (or local jurisdiction). This subsequent thorough review by the matching agency is an essential element of this project. The mere existence of an individual's match between a program file and the OPM file will not be itself, or without the individual's prior opportunity to respond, be the cause of any benefit reduction or legal collection action. The matching agency will be required to certify in writing its agreement to these safeguards.

Due to the fact that the information cited is not normally disclosed without the data subject's approval, the routine use is necessary to permit such disclosures. Though these data elements are not considered to be public information, anticipated benefits to the public justify disclosure of this information for computer matching purposes with participating states under safeguards established by those states jointly with the Office to protect against unauthorized disclosure. Disclosure under the proposed routine use will permit the states (and local jurisdictions) to assure greater integrity of their various programs.

The Office fully recognizes that in the proposal authorized by this particular routine use, only the records of former Federal employees and their survivors are being examined and has taken certain steps to protect the privacy of those individuals while furthering the goals of eliminating waste, fraud, and abuse in the recipient programs administered by the states. Care has been taken to determine the best approach to permit the Office's participation and also to comply with the letter and intent of the Privacy Act. Analysis of these concerns was accomplished by the Office staff as well as by various agencies involved with the PCIE Long Range Computer Matching Project. The result of this study was a clear determination that a computer matching program of this nature could be conducted within the framework of the Privacy Act if the conditions described in OMB's Matching Guidelines were followed. It should be noted that the states in their attempts to reduce waste, fraud, and abuse in benefit programs will not be confining their review to Federal employees or Federal retirees. Other programs encompass non-Federal employees who are receiving benefit assistance in the various states (or local jurisdictions) as private citizens.

Disclosure will permit the states (or local jurisdictions) to assure greater integrity of their benefit recipient programs and help assure that Federal employees conduct themselves in a proper manner and not obtain financial benefits in a fraudulent manner. Disclosure under the proposed routine use is compatible with the Federal personnel management responsibility for oversight of Federal employees' and retirees' conduct particularly with regard to the requirement that these individuals comport themselves in a proper manner and not obtain financial benefits in a fraudulent manner.

Important limitations to the Office's supplying of the data are that the states must: (1) Agree to follow the requirements of the OMB's "Guidelines for Conducting Computerized Matching Programs;" (2) not retain the data the Office furnished beyond six months with the tapes either being destroyed by the states or returned to the Office; (3) not utilize the information for matching purposes other than those specifically agreed upon; (4) not use the file to extract information concerning "non-matching" individuals for *any* purpose; and (5) not derivatively use the file or information without the Office's specific permission.

A match between the Civil Service Retirement and Insurance File and the states' programs is not an indication that any illegality has occurred; the match will alert the states, however, that further study is warranted to see if there is any impropriety.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

The following routine use will be added to the OPM's system of records (OPM/CENTRAL-1). The current notice of this system is published at 47 FR 16466 et seq., (April 16, 1982).

OPM/CENTRAL-1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

* * * * *

gg. To disclose information contained in the Retirement Annuity Master File including the name, social security number, date of birth, sex, Office of Personnel Management claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and zip code, of all Federal retirees and their survivors to requesting states to help eliminate fraud and abuse in the benefit programs administered by the states (and by those states to local governments) and to collect debts and overpayments owed to those governments and their components.

* * * * *

[FR Doc. 83-7711 Filed 3-24-83; 8:45 am]

BILLING CODE 6325-1-M

Privacy Act of 1974; Proposed Routine Use for an Exiting System of Records

AGENCY: Office of Personnel Management.

ACTION: Proposal for a new routine use to be added to an existing system of records.

SUMMARY: The purpose of this document is to propose a new routine use for the Office's General Personnel Records System (OPM/GOVT-1). This routine use, once in effect, will permit the discretionary disclosure of data from the Office's Central Personnel Data File (CPDF) to state agencies that provide assistance and other services to individuals to the extent that the disclosure is necessary in order that the appropriate state component take legal, administrative, or corrective action to improve program integrity. This disclosure of information will be used in a state's attempt to eliminate waste, fraud, and abuse in its benefit recipient programs.

DATES: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before April 25, 1983. Unless a notice to the contrary is published, this routine use will become effective 30 days after the comment period.

ADDRESS: Address comments to: Assistant Director for Workforce Information, Office of Personnel Management (Room 5468), 1900 E Street, N.W., Washington, D.C., 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Sanet, Workforce Records Management Division, (202) 254-9790.

SUPPLEMENTARY INFORMATION: Based on recent correspondence and communication among the Office of Personnel Management, the Inspector General's Office at the Department of Labor, and the states of New York and Florida, the President's Council on Integrity and Efficiency (PCIE) Long Range Computer Matching Project has found that identification of Federal employees who are improperly receiving state government benefits or have delinquent debts can be effectively and efficiently detected through the use of computer matching techniques on a government-wide basis.

These computer matches will be done in similar fashion to the matches described in the propsoed routine use published in the **Federal Register** on February 26, 1982 (47 FR 8438). That

routine use permitted OPM to disclose data from the Central Personnel Data File (CPDF) to Federal agencies for use in duly authorized matching programs. Based in part on the Federal government experience concerning computer matching projects, various states perceive similar advantages in terms of program efficiency and elimination of fraud and abuse. One approach is to compare their benefit and delinquency files with information maintained by the Federal government.

The most efficient way of comparing individuals who are recipients of various assistance programs with those who are active Federal civilian employees is for OPM to provide an extract of its Central Personnel Data File (CPDF) limited to the relevant data elements to the states conducting these various assistance programs.

The disclosure of individual data from the CPDF to the states will be for the purpose of conducting computer matching programs. The CPDF is part of the OPM/GOVT–1 system of records. The matches will be conducted in accordance with the Office of Management and Budget's revised "Guidelines for Conducting Computerized Matching Programs" (47 FR 21656; May 19, 1982).

During OPM's participation in the formulation of this computer matching project, it was the Office's position that information could be disclosed from the CPDF only if the various recipient states agreed to strictly adhere to OMB's Matching Guidelines. The individual particpating states will be required to submit written requests for the Office's information, including written assurance to the Office that the privacy protections expressed in the Matching Guidelines and other specific protection provisions will be followed. Any subsequent releases for computer matching purposes to local jurisdictions within the states will be subject to the same written assurances to the Office.

Information on individuals that may be disclosed to the various matching jurisdictions through this routine use includes: Name, social security number, date of birth, sex, annualized salary rate, separation date, occupational series, position occupied, work schedule, agency identifier, agency subelement identifier, geographic duty location, special program identifier, and submitting office number. The Office retains the authority under the proposed routine use to withhold specific data elements from a requesting state if it is believed that the particular elements are not germane to the particular benefit program.

Upon receipt of this information or a portion thereof, and after compliance with the OMB Guidelines on Matching Programs and written assurances to the Office, the state will computer match it against its various files involving benefit recipients. For each matching record, the state (or local jurisdiciton) will conduct a more thorough review of the recipeint's status as to eligibility for assistance and any debt that is owed to that state (or local jurisdiction). This subsequent thorough review by the matching agency is an essential element of this project. The mere existence of an individual's match between a program file and the OPM file will not by itself, or without the individual's prior opportunity to respond, be the cause of any benefit reduction or legal collection action. The matching agency will be required to certify in writing its agreement to these safeguards.

Under Office regulations (5 CFR 294.702), the disclosure of the name, agency, salary, and duty station location (including agency identifier, agency subelement identifier, and submitting officer number) is permitted without the data subject's prior approval. Thus, the routine use is necessary to permit the disclosure of the other data cited in the proposed routine use. Though these other data are not considered to be public information, anticipated benefits to the public justify disclosure of this information for computer matching purposes with participating states under safeguards established by those states jointly with the Office to protect against unauthorized disclosure. Disclosure under the proposed routine use will permit the states (and local jurisdictions) to assure greater integrity of their various programs.

The Office fully recognizes that in the proposal authorized by this particular routine use, only the records of Federal employees are being examined and has taken certain steps to protect the privacy of those individuals while furthering the goals of eliminating waste, fraud, and abuse in the recipient programs administered by the states. Care has been taken to determine the best approach to permit the Office's participation and also to comply with the letter and intent of the Privacy Act. Analysis of these concerns was accomplished by the Office staff as well as by various agencies involved with the PCIE Long Range Computer Matching Project. The result of this study was a clear determination that a computer matching program of this nature could be conducted within the framework of the Privacy Act if the conditions described in OMB's Matching Guidelines were followed. It should be noted that the states in their attempts to reduce waste, fraud, and abuse in benefit programs will not be confining their review to Federal employees or Federal retirees. Other programs encompass non-Federal employees who are receiving benefit assistance in the various states (or local jurisdictions) as private citizens.

Disclosure will permit the states (or local jurisdictions) to assure greater integrity of their benefit recipient programs and help assure that Federal employees conduct themselves in a proper manner and not obtain financial benefits in a fraudulent manner. Disclosure under the proposed routine use is compatible with the Federal personnel management responsibility for oversight of Federal employees' and retirees' conduct, particularly with regard to the requirement that these employees comport themselves in a proper manner and not obtain financial benefits in a fraudulent manner.

Important limitations to the Office's supplying of the data are that the states must: (1) Agree to follow the requirements of the OMB's "Guidelines for Conducting Computerized Matching Programs;" (2) not retain the data the Office furnished beyond six months with the tapes either being destroyed by the states or returned to the Office; (3) not utilize the information for matching purposes other than those specifically agreed upon; (4) not use the file to extract information concerning "non-matching" individuals for *any* purpose; and (5) not derivatively use the file or information without the Office's specific permission.

A match between the CPDF and the states' programs is not an indication that any illegality has occurred; the match will alert the states, however, that further study is warranted to see if there is any impropriety.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

The following routine use will be added to the Office of Personnel Management's government-wide system of records (OPM/GOVT–1). The current notice of this system is published at 47 FR 16466 et seq., April 16, 1982.

OPM/GOVT–1

SYSTEM NAME:

General Personnel Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

* * * * *

hh. To disclose information contained in the Central Personnel Data File including the name, social security number, date of birth, sex, annualized salary rate, separation or retirement date, retirement status, occupational series, position occupied, work schedule (full-time, part-time, or intermittent), agency identifier, geographic location (duty station location), standard metropolitan statistical area, special program identifier, and submitting office number, of Federal employees to requesting states (and by those states to local governments) for use in computer matching to help eliminate fraud and abuse in the benefit programs administered by the states and to collect debt and overpayments owed to those governments and their components.

* * * * *

[FR Doc. 83-7712 Filed 3-23-83; 8:45 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22876; (70-6838)]

Western Massachusetts Electric Co.; Proposed Authorization, Issuance, and Sale of Preferred Stock and Depositary Preferred Shares

March 9, 1983.

Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed an application, and amendments thereto, pursuant to Section 6(a) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

WMECO proposes to issue and sell not later than December 31, 1983, up to $50 million (500,000 shares) of its —% Preferred Stock, Series D, with a par value of $100 per share (the "Preferred Stock, Series D" or, collectively with Series E below "Preferred Stock") to underwriters for deposit with The Connecticut Bank and Trust Company as Depositary. The underwriters will receive depositary receipts ("Depositary Receipts") from the Depositary and deliver them to repurchasers in a subsequent public offering. The Depositary Receipts received will evidence up to 2,000,000 Depositary Preferred Shares, each representing ¼th share of Preferred Stock, Series D. The owner of a Depositary Preferred Share will be entitled, proportionally, to all of the rights and preferences (including dividends, redemption, liquidation and voting rights) of the underlying Preferred Stock, Series D. The dividend rate of the Preferred Stock, Series D (which shall be a multiple of 0.08%), the price, exclusive of accrued dividends, to be paid to WMECO (which shall not be less than $100 nor more than $102.75 per share), and the underwriters' compensation will be determined by competitive bidding. Under certain circumstances, upon notice to the holders of Depositary Preferred Shares, the deposit arrangements may be terminated. The terms shall restrict for approximately five years redemption of the Preferred Stock with funds borrowed or stock, of prior or equal ranking, issued with an effective cost less than the effective cost of the Preferred Stock.

If market conditions at the proposed time of issue do not permit all 500,000 shares to be issued in a single offering, WMECO proposes to effect a smaller issue. If, having effected one issue, market conditions permit an additional offering at a later time, WMECO proposes to offer additional shares, at any time before December 31, 1983, in an amount equal to or less than the difference between 500,000 shares and the number of shares offered and sold in the first offering. The second issue would be designated the Preferred Stock, Series E, but in all other respects would be offered and sold in the manner described herein with respect to the Preferred Stock, Series D.

WMECO has been advised by its financial advisors that an issue of preferred stock with an adjustable rate may offer the potential for savings compared with the effective cost of a conventional fixed rate issue of preferred stock. Therefore, WMECO may issue Preferred Stock with an adjustable dividend rate. If such an option is chosen for either series, the initial dividend rate would be a fixed percentage rate to be set as part of the terms of the sale. However, for all subsequent dividend payment periods the annual dividend per share would, subject to maximum (not higher than 15 percent per annum) and minimum (not lower than 6 percent per annum) rates that would be fixed by WMECO, be computed at a fixed percentage rate (which would be set as part of the terms of sale) above or below the Applicable Rate (as described below), from time to time in effect, for each subsequent quarterly dividend period.

The Applicable Rate for any dividend period would be the highest of: (i) The Three-month Treasury Bill Rate, (ii) the Ten Year Constant Maturity Rate and (iii) the Twenty Year Constant Maturity Rate for such dividend period. If WMECO determines that for any reason one or more of such rates cannot be determined for any dividend period, then the Applicable Rate for such dividend period would be the higher of whichever of such rates can be so determined. If WMECO determines that none of such rates can be determined for any dividend period, then the Applicable Rate in effect for the preceding dividend period would be continued for such dividend period.

WMECO believes that the sale of the Preferred Stock may require the assistance of underwriters, dealers or agents if market conditions at the time of the offering of the securities are unfavorable. Accordingly, WMECO may amend this application to seek an exception from Rule 50 for either the fixed rate or adjustable rate Preferred Stock so that it may offer Preferred Stock through a negotiated offering.

WMECO may also use alternative competitive bidding procedures in accordance with the Commission's delayed or continuous offering and sale procedures contained in Rule 415, 17 CFR 230.45, for the sale of the Preferred Stock. Pursuant to Rule 50(a)(5) of the Act, the Commission has issued a statement of policy (HCAR No. 22623, September 2, 1982), authorizing until definitive Commission action on Rule 415, the use of alternative competitive bidding procedures in lieu of the procedures prescribed by Rule 50(b).

The net proceeds from the issuance and sale of the Preferred Stock will be used to repay in part short-term borrowings (consisting of bank loans and commercial paper) and construction trust borrowings, which were incurred to finance WMECO's construction program and, in the case of short-term borrowings, for general working capital purposes. WMECO's 1983–1984 construction program (including allowance for funds used during construction but excluding nuclear fuel) is expected to total about $207 million, of which $100 million is expected to be expended in 1983 and $107 million is expected to be expended in 1984.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 31, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an

attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-7721 Filed 3-24-83; 8:45 am]

BILLING CODE 8010-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document consists of a new survey. The entry contains the following information: (1) The department or staff office issuing the form; (2) the title of the form; (3) the agency form number, if applicable; (4) how often the form must be filled out; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form; and (8) an indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESS: 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, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503 (202) 395-7316.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: March 18, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

New Survey

(1) Veterans Administration, Office of Reports and Statistics.

(2) Survey of Aging Veterans.

(3) N/A.

(4) This collection of data is a one-time process.

(5) The survey will be conducted among a national probability sample of 3,000 veterans who are aged 55 or older, living in the 48 coterminous United States and the District of Columbia.

(6) 3,000 responses.

(7) 3,200 hours.

(8) Not applicable under 3504(H).

[FR Doc. 83-7708 Filed 3-24-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 59
Friday, March 25, 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).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, April 1, 1983.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-413-83 Filed 3-23-83; 11:28 am]
BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 am., Tuesday, March 29, 1983.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:
CBT 90-Day U.S. T-Bill Contract
CBT Crude Oil Contract
NYME Crude Oil Contract
Arbitration/Final Rules
Introducing Broker Proposed Rules.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-414-83 Filed 3-23-83; 11:28 am]
BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, March 25, 1983.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-415-83 Filed 3-23-83; 11:28 am]
BILLING CODE 6351-01-M

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, March 29, 1983, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room 200, second floor, of Columbia Plaza Office Building, 2401 E Street NW., Washington, DC. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Report on Commission Operations (Optional).
3. Proposed **Federal Register** Notice: Voluntary Assistance Program.
4. Proposed EEO Management Directive 712: Comprehensive Affirmative Action Programs for Hiring, Placement, and Advancement of Handicapped Individuals.

Closed:

1. Litigation Authorization; General Counsel Recommendations.
2. Consideration for Withdrawal of Certain Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice Issued March 22, 1983.

[S-409-83 Filed 3-23-83; 10:29 am]
BILLING CODE 6570-06-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 4:30 p.m. on Tuesday, March 22, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Request of Imperial Bank, Los Angeles, California, for an extension of time within which to establish its branch to be located at 1925 Century Park East, Los Angeles, California.

Application for assistance under section 13(c) of the Federal Deposit Insurance Act: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: March 23, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-416-83 Filed 3-23-83; 3:41 pm]
BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (15 U.S.C. 552b(e)(2)), notice is hereby given that at its open

meeting held at 4:00 p.m., on Tuesday, March 22, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Volunteer State Bank, Portland, Tennessee, an insured State nonmember bank, for consent to merge, under its charter and title, with Bank of Hendersonville, Hendersonville, Tennessee, and to establish the two offices of Bank of Hendersonville as branches of the resultant bank.

Recommendations regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,635–NR (Amended)—Penn Square Bank, National Association, Oklahoma City, Oklahoma.

Resolution re: Amended Delegations of Authority relating to the FDIC Capital Assistance Plan.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: March 23, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–417–83 Filed 3–23–83; 3:41 pm]

BILLING CODE 6714–01–M

7

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 11808, Monday, March 21, 1983.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Thursday, March 24, 1983, at 1:30 p.m. has been cancelled.

[No. 28, March 23, 1983]

[S–410–83 Filed 3–23–83; 11:25 am]

BILLING CODE 6720–01–M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Meeting notice.

STATUS: Open.

TIME AND DATE: 9:00 a.m., April 27–28, 1983.

PLACE: Federal Building, South Auditorium, 915 Second Avenue, Seattle, Washington.

MATTERS TO BE CONSIDERED:

- Adoption of Regional Conservation and Electric Power Plan.
- Approval of Council minutes.
- Council administrative matters.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222–5161.

Edward Sheets,

Executive Director.

[S–411–83 Filed 3–23–83; 11:25 am]

BILLING CODE 0000–00–M

9

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Meeting notice.

STATUS: Open.

TIME AND DATE: 9:00 a.m., April 6–7, 1983.

PLACE: Northwest Power Planning Council, 700 S.W. Taylor, Suite 200, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Discussion of Staff Analysis of Comments on the Draft Energy Plan.
- Approval of Council minutes.
- Council Administrative matters.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222–5161.

Edward Sheets,

Executive Director.

[S–412–83 Filed 3–23–83; 11:25 am]

BILLING CODE 0000–00–M

federal register

Friday
March 25, 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.

Arkansas:	
AR82-4006	Feb. 12, 1982.
AR82-4036	July 9, 1982.
AR82-4037	July 9, 1982.
AR82-4038	July 23, 1982.
AR82-4039	July 23, 1982.
Colorado: CO81-5149	Sept. 4, 1981.
New York: NY81-3039	June 12, 1981.
Georgia:	
GA82-1058	Oct. 8, 1982.
GA82-1059	Oct. 8, 1982.
GA83-1002	Jan. 21, 1983.
GA83-1003	Jan. 21, 1983.
Illinois: IL83-2011	Feb. 18, 1983.
New York: NY82-3035	Sept. 3, 1982.
Oregon: OR83-5106	Mar. 18, 1983.
Massachusetts: MA81-3050	Aug. 28, 1981.
Missouri:	
MO82-4066	Dec. 27, 1982.
MO82-4047	Oct. 1, 1982.
MO82-4069	Dec. 17, 1982.
Pennsylvania:	
PA81-3043	July 17, 1981.
PA81-3027	July 17, 1981.
PA81-3029	July 10, 1981.
PA81-3091	Dec. 28, 1981.
PA81-3068	Sept. 25, 1981.
PA82-3010	Mar. 5, 1982.
PA82-3028	Sept. 10, 1982.
PA82-3027	Oct. 8, 1982.
Texas:	
TX83-4002	Jan. 7, 1983.
TX83-4007	Jan. 7, 1983.
Virginia: VA82-3033	Dec. 3, 1982.
Wisconsin:	
WI82-2015	Mar. 12, 1982.
WI82-2020	Mar. 26, 1982.
WI82-2016	Mar. 12, 1982.
WI82-2017	Mar. 19, 1982.
WI82-2018	Mar. 19, 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. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Indiana: IN80-2019 (IN83-2026)	Apr. 11, 1980.
Mississippi: MS81-1285 (MS83-1014)	Sept. 4, 1981.
New York: NY81-3022 (NY83-3003)	Apr. 3, 1981.
Ohio: OH81-2014 (OH83-2027)	Apr. 10, 1981.
Utah: UT82-5121 (UT83-5108)	Sept. 3, 1982

Signed at Washington, D.C., this 18th day of March 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION #AR82-4006-Mod.#6
47FR6547-February 12, 1982
Sebastian, Crawford and Washington Counties, Arkansas

CHANGE:
SEBASTIAN & CRAWFORD COS.

	Basic Hourly Rates	Fringe Benefits
Sheet metal workers	$14.08	3%+1.93

DECISION #AR82-4036-Mod.#4
47FR29974-July 9, 1982
Pulaski County, Arkansas

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Sheet metal workers	$14.08	3%+1.93

DECISION #AR82-4037-Mod.#3
47FR29975-July 9, 1982
Jefferson County, Arkansas

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Sheet metal workers	$14.08	3%+1.93

DECISION #AR82-4038-Mod.#3
47FR32032-July 23, 1982
Union and Ouachita Counties, Arkansas

CHANGE:
ELECTRICIANS & LINE CONSTRUCTION:
Electrical contracts $20,000.00 or less:

Electricians-Linemen	$15.09	3%%
Cable splicers	15.39	3%%
Electrical contracts over $20,000.00:		
Electricians-Linemen	$15.88	3%%
Cable splicers	16.18	3%%
PLUMBERS-PIPEFITTERS	14.75	1.65

DECISION #AR82-4039-Mod. #3
47FR32033-July 23, 1982
Garland, Clark and Hot Springs Counties, Arkansas

CHANGE:

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS-STONEMASONS:		
Garland & Clark Cos.	$12.75	.60
SHEET METAL WORKERS	14.08	3%+1.93
PAINTERS:		
Brush and roller	9.25	
Paperhanging	9.75	
Sheet rock (tape and float only)	9.75	
Stage and steel	11.25	
Spray and Sandblasting	12.50	
Painters operating any kind of taping or floating machine	13.00	

DECISION NO. CO81-5149 - Mod. #4
(46 FR 44620 - September 4, 1981)
Statewide, Colorado

Omit: Montezuma Co.
Omit:
The following classifications and wage rates:
Carpenters:
Underground Carpenters
Laborers:
Tunnels
Power Equipment Operators:
(For work in Tunnels, Shafts, and raises)

	Basic Hourly Rates	Fringe Benefits

DECISION NO. NY81-3039 - MOD. #5
(46 FR 31189 - June 12, 1981)
MONROE COUNTY, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ROOFERS	15.59	1.95

DECISION #GA82-1058 - Mod. #2
(47 FR 44665 - October 8, 1982)
Chatham County, Georgia

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Asbestos workers	$14.29	2.41
Boilermakers	16.20	3.315
Ironworkers	13.60	1.93

DECISION #GA82-1059 - Mod. #3
(47 FR 44664 - October 8, 1982)
Richmond County, Georgia

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Boilermakers	$16.20	3.315
Ironworkers	13.60	1.93
Plumbers & Pipefitters	14.33	1.88

DECISION #GA83-1002 - Mod. #1
(48 FR 2930 - January 21, 1983)
Clayton, DeKalb, & Fulton Counties, Georgia

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Asbestos workers	$15.35	2.20
Boilermakers	16.20	3.315
Bricklayers & Stone masons	13.52	2.55
Carpenters, Drywall hangers, & Resilient floor layers:		
Projects 10 stories or less, and hospital contracts $10,000,000 .00 or less	12.75	1.77
All other projects	14.00	1.77
Marble masons, Tile setters, & Terrazzo workers	13.52	2.48
Plumbers & Pipefitters	14.90	2.24
Sheet metal workers	14.54	2.29

DECISION #GA83-1003 - Mod #1
(48 FR 2931 - January 21, 1983)
DeKalb & Fulton Counties, Georgia

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Bricklayers	$13.52	2.55
Carpenters:		
Subway Construction Projects	14.00	1.77
All Other Construction Projects	12.75	1.77
Plumbers & Pipefitters	14.90	2.24
Sheet metal workers	14.54	2.29

DECISION NO. IL83-2011 - MOD. #2
(48 FR 7348 - February 18, 1983)
Cook County, Illinois

Change:

	Basic Hourly Rates	Fringe Benefits
Electricians	$17.55	$3.68

DECISION NO. NY82-3035 - MOD. #5
(47 FR 39079 - Sept. 3, 1982)
ORANGE COUNTY, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
GLAZIERS	16.75	5.35
IRONWORKERS	13.15	9.17

[illegible] OR83-5106 - Mod. #1
March 18, 1983
Lane, Linn, and Marion Counties, Oregon

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Sheet Metal Workers: Linn & Marion Counties	$12.12	$1.3[illegible]

Modification Page 3

DECISION NO. MA81-3050 - MOD. #5 (46 FR 43625 - August 28, 1981) WORCESTER COUNTY, MASS.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS		
Warren, W. Warren Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Phillipston, Westminster and Winchendon	16.13	1.38+3%
Remainder of County	15.80	2.12+3%
	16.00	1.81+ 11%
PAINTERS		
Reminder of County		
Brush	15.08	2.80
Steel	17.20	2.80
Sandblasting & Spray	16.08	2.80
Repaint	12.82	2.80
Residential	11.31	2.80

DECISION #MO82-4066-Mod.#1 (47 FR 57615-December 27, 1982) Boone, Cooper and Howard Cos., Missouri	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	$17.29	$3.30
Bricklayers; Stonemasons & Tile Layers	13.75	.50
Carpenters:		
Carpenters & Lathers	13.45	.83
Millwrights	14.10	.83
Piledrivers	13.85	.83
Plumbers; Pipefitters	16.38	2.27
Laborers:		
Group 1	11.75	1.15
Group 2	12.00	1.15
Group 3	12.10	1.15
Power Equipment Operators:		
Boone County:		
Group 5:		
(f)	16.17	3.00
(g)	16.67	3.00
(h)	17.17	3.00

DECISION #MO82-4047-Mod.#1 (47 FR 43524-October 1, 1982) Greene County, Missouri	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	$17.44	$1.75
Electricians:		
Electricians	14.55	9%+ 1.74
Cable Splicers	14.95	9%+ 1.74
Ironworkers	15.025	3.75
Plumbers & Pipefitters	15.17	1.33

DECISION #MO82-4069-Mod.#1 (47 FR 56603-December 17, 1982) Pettis and Saline Counties, Missouri	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	17.29	3.30
Bricklayers, Stonemasons, Tile Layers	13.75	.50
Carpenters (Pettis Co.):		
Carpenters & Lathers	12.75	1.03
Millwrights	13.25	1.03
Piledrivers	12.875	1.03
Electricians (Pettis Co.):		
Contracts not exceeding 2000 man hours	15.18	2.51+ 10%
Contract exceeding 2000 man hours	16.18	2.51+ 10%
Electricians (Saline Co.):		
Contracts not exceeding 2000 man hours	14.58	2.51+ 10%
Contracts exceeding 2000 man hours	16.18	2.51+ 10%
Elevator Constructors:		
Elevator Constructors	16.53	2.465+ a
Laborers (Pettis Co.):		
Group 1	9.575	2.68
Group 2	9.675	2.60
Group 3	9.90	2.60
Laborers (Saline Co.):		
Group 1	12.00	1.76
Group 2	12.15	1.76
Group 3	12.30	1.76

Modification Page 4

DECISION NO. PA81-3043 MOD. NO. 10 (46 FR 37212 - July 17, 1981) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington, Westmoreland Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos Workers	$15.78	3.99
Electricians:		
Zone 2	16.72	3.63+ 3%
Zone 3	17.50	3.50+3%
Glaziers	14.23	4.45
Millwrights	13.91	3%%
Plasterers		
Zone 1	13.54	3.02
Plumbers:		
Zone 3	15.80	3.59
Terrazzo Workers		
Zone 1	14.30	3.51
Line Construction:		
Zone 1		
Linemen	18.24	.60+ 3-3/8%
Winch truck operator	12.77	.60+ 3-3/8%
Groundmen	10.94	.60+ 3-3/8%

DECISION NO. PA81-3027 - MOD. #10 (46 FR 37212 - July 17, 1981) FRANKLIN COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	15.76	2.04
LABORERS	10.82	20%

DECISION NO. PA81-3029 - MOD. #8 (46 FR 35891 - July 10, 1981) BLAIR COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	15.78	3.99
ELECTRICIANS	17.70	2.85+ 3%
GLAZIERS	14.23	4.45
IRONWORKERS	14.165	3.435
LABORERS	11.08	20%

DECISION NO. PA81-3091 - MOD. #6 (46 FR 62761 - Dec. 28, 1981) GREENE, SOMERSET & POTTER COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS		
Greene & Somerset Cos.	15.78	3.99
BOILERMAKERS	17.88	2.415
GLAZIERS		
Greene & Somerset Cos.	14.23	4.45
LABORERS:		
Somerset County		
Class 1	11.08	20%
Class 2	11.43	20%
Class 3	11.68	20%
Class 4	11.58	20%
Class 5	11.15	20%
Potter County		
Class 1	12.50	20%
Class 2	12.75	20%
Class 3	13.30	20%
LINE CONSTRUCTION:		
Greene & Somerset Cos.:		
Linemen	18.24	.60+3 3/8%
Groundman	10.94	.60+3 3/8%
Winch Truck Op.	12.77	.60+3 3/8%
PLUMBERS:		
Remainder of County	15.80	3.59
PLASTERERS		
Greene County	13.54	3.02

DECISION NO. PA81-3068 - MOD. #10 (46 FR 47403 - Sept. 25, 1981) LEBANON COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ROOFERS:		
Composition, damp & waterproofing	16.92	2.36+a

DECISION NO. PA82-3010 - MOD. #6 (47 FR 9684 - March 5, 1982) CLINTON, CENTRE, HUNTINGDON, FULTON & MIFFLIN COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
LABORERS:		
Clinton County		
Unskilled Laborers	11.08	20%
Plasterers Tenders	11.15	20%
Centre, Huntingdon, Fulton and Mifflin Cos.:		
Unskilled Laborers	10.82	20%
Plasterers Tenders	10.87	20%
LINE CONSTRUCTION:		
Centre, Fulton & Huntingdon Counties		
Lineman	18.24	.60+3 3/8%
Groundman	10.94	.60+3 3/8%
Winch truck op.	12.77	.60+3 3/8%
ELECTRICIANS:		
Fulton, Huntingdton and Remainder of Centre County	17.70	2.85+3%
ADD:		
GLAZIERS	14.23	4.45

DECISION NO. PA82-3028 - MOD. #4 (47 FR 39972 - Sept. 10, 1982) ELK, FOREST, MCKEAN & WARREN COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS		
Elk County	15.78	3.99
BRICKLAYERS, CEMENT MASONS & STONEMASONS:		
Elk, McKean and Warren Counties	14.90	2.40
ELECTRICIANS		
Elk & McKean Counties	17.70	2.85+3%
GLAZIERS		
Elk County	14.23	4.45
LABORERS:		
Common laborers, carpenter tender, scaffold builder for masons, window cleaner, from stripper and mover, scaffold and mover, scaffold and runways, building materials handlers (Loading and Unloading), concrete pitman, puddler, mason tender	12.50	20%
Mechanical tampers (power) powered wheelbarrows and work worklifts, sweepers and similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (Includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burner-cutting torch, carryayable pumps, chain saw op., pipe layers all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for		

DECISION NO. PA82-3028 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
LABORERS: (CONT'D)		
plasterers' regardless of height, hod carrier, plasterer tender, form cleaning machine operator, plasterer applicating and/or pump machine operator, paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman, blacksmith, tool dresser (cable tool)	12.75	20%
Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and tamper, welder, driller (cable tools)	13.30	20%
Wrecking Laborers	12.50	20%
Low Burner	12.75	20%
Jackhammer Operator	12.75	20%
High Burner	13.55	20%
High Burner Helper	13.25	20%
MILLWRIGHTS		
Elk, FOrest & McKean Counties	13.91	39½%

DECISION NO. PA82-3027 - MOD. #4 (47 FR 44670 - October 8 1982) BEDFORD, CAMBRIA, CAMERON, CLARION, CLEARFIELD, JEFFERSON, CRAWFORD & VENANGO COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS		
Zone 1	15.78	3.99
BRICKLAYERS & STONEMASONS		
Zone 4	14.90	2.40
ELECTRICIANS		
Zone 1	17.70	2.85+3%
GLAZIERS		
Zone 1	14.23	4.45
LABORERS		
Zone 3		
Class I	12.50	20%
Class II	12.75	20%
Class III	13.30	20%
Zone 5		
Class I	10.82	20%
Class II	11.17	20%
Class III	11.42	20%
Class IV	11.32	20%
Class V	10.87	20%
Zone 6		
Class I	11.08	20%
Class II	11.43	20%
Class III	11.68	20%
Class IV	11.58	20%
Class V	11.15	20%
LANDSCAPING		
Zone 2		
Class 1	11.50	20%
LINE CONSTRUCTION		
Zone 1		
Class I	18.24	.60+3 3/8%
Class II	10.94	.60+3 3/8%
Class III	12.77	.60+3 3/8%
MILLWRIGHTS	13.91	.39½%
ELECTRICIANS:		
Zone 2	16.72	5.63+3%
Zone 3	17.70	1.50+3%

DECISION NO. TX83-4002- MOD. #3 (48 FR 931 - 1/7/83) Armstrong,Carson,Castro, Childress,Collingsworth, Dallam,Deaf Smith,Donley,Gray,Hansford,Hartley,Hemphill,Hutchinson,Lipscomb,Moore, Ochiltree,Oldham, Potter,Randall,Roberts, Sherman,Swisher & Wheeler Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE: Ironworkers - Zone 2	$12.625	2.95

DECISION NO. TX83-4007 - MOD. #3 (48 FR 932 - 1/7/83) Wichita County,Texas	Basic Hourly Rates	Fringe Benefits
CHANGE: Ironworkers: Structural;Ornamental & Reinforcing	12.50	2.95
Ironworkers on jobs 30 miles or more from the City of Wichita Falls	12.625	2.95

DECISION NO. VA82-3033-Mod #2 (47 FR 54744-December 3, 1982) Henrico County & the Independent City of Richmond	Basic Hourly Rates	Fringe Benefits
CHANGE: MOD. # 1 to DECISION NO. VA82-3022 published on February 18,1983 on page 7364 to read: DECISION NO. VA82-3033-MOD. # 1 (47 FR 54744-DECEMBER 3,1982) Henrico County & the Independent City of Richmond		
CHANGE: CARPENTERS	$12.85	1.70

DECISION NO. WI82-2015 - MOD. #1 (47 FR 10965 - March 12, 1982) Chippewa, Eau Claire, and Pepin Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$17.08	3.00
Boilermakers	16.12	2.825
Bricklayers	14.15	1.80
Carpenters, Lathers, & Soft Floor Layers	13.76	1.91
Cement Masons	14.15	1.80
Electricians	15.66	13%%
Elevator Constructors	16.43	2.465 +a&b
Helpers	11.50	2.465 +a&b
Probationary Helpers	8.215	
Ironworkers	16.05	2.59
Glaziers	13.08	.70
Laborers:		
General	11.72	1.43
Mason Tenders	11.97	1.43
Jackhammer Operator	12.02	1.43
Line Construction:		
Linemen	15.47	.65+ 10%%
Heavy Equipment Operators	13.92	.65+ 10%%
Light Equipment Operators	12.38	.65+ 10%%
Heavy Groundman - Truck Drivers	10.83	.65+ 10%%
Light Groundman - Truck Drivers	10.06	.65+ 10%%
Groundmen	8.51	.65+ 10%%
Millwrights & Piledrivermen	14.16	1.91
Painters:		
Brush	13.00	.15+ 5%
Spray and Sandblasting	13.50	.15+ 5%
Structural Steel	14.00	.15+ 5%

DECISION NO.WI82-2015 (Cont'd):	Basic Hourly Rates	Fringe Benefits
Plumbers & Steamfitters	14.42	3.55
Roofers	14.12	3%
Sheet Metal Workers	15.64	1.56
Truck Drivers:		
2 Axle	12.30	1.457
3 or more Axles	12.30	1.457
Power Equipment Operators:		
Group I	15.22	2.85
Group II	14.92	2.85
Group III	14.56	2.85
Group IV	14.44	2.85
Group V	13.88	2.85
Group VI	13.41	2.85

DECISION NO. WI82-2020 - MOD. #1 (47 FR 13111 - March 26, 1982) Kenosha County, Wisconsin	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$16.50	2.70
Boilermakers	16.12	2.825
Bricklayers & Stonemasons	14.77	1.97
Carpenters, Soft Floor Layers & Lathers	14.16	2.10
Millwrights	14.48	2.10
Piledrivermen	14.25	2.10
Cement Masons	13.42	2.81
Electricians	17.50	.71+ 4 3/4%
Elevator Constructors	15.975	2.465
Helpers	11.18	2.465
Helpers (Probationary)	7.99	
Ironworkers:		
Structural, Ornamental and Reinforcing	14.81	4.49
Painters:		
Brush	11.975	2.25
Structural Steel	12.125	2.25
Swing Stage	12.175	2.25
Spray & Sandblaster	12.725	2.25
Plasterers & Steamfitters	15.48	2.59
Roofers	13.32	1.66
Sheet Metal Workers	15.16	3.79
Terrazzo Workers	14.60	3.88
Tile Setters	11.96	2.97
Laborers:		
General	10.62	3.29
Plaster Tender	10.77	3.29
Air and Electric Tool Operator	10.92	3.29
Jackhammer Operator	11.32	3.29
Power Equipment Operators:		
Group I	15.22	2.90
Group II	14.92	2.90
Group III	14.56	2.90
Group IV	14.44	2.90
Group V	13.88	2.90
Group VI	13.41	2.90
Plumbers & Steamfitters	15.48	2.59

DECISION NO. WI82-2016 -	Basic Hourly Rates	Fringe Benefits
MOD. #1		
(47 FR 10966 - March 12, 1982)		
Green & Rock Counties, Wisconsin		
Change:		
Asbestos Workers	$15.88	2.67
Boilermakers	16.12	2.285
Bricklayers & Stonemasons	13.83	2.47
Carpenters & Soft Floor Layers	15.59	2.21
Millwrights	16.19	2.21
Piledrivermen	15.74	2.21
Cement Masons	13.80	2.30
Electricians	15.58	.72+ 13%
Elevator Constructors:		
Southern Portion	17.025	2.435
Northern Portion	15.22	2.435
Elevator Constructors' Helpers:		
Southern Portion	11.92	2.435
Northern Portion	10.65	2.435
Elevator Constructors' Helpers (Prob.):		
Southern Portion	8.51	
Northern Portion	7.61	
Glaziers:		
Northern 2/3 of Cos.	15.08	1.58
Southern 1/3 of Cos.	13.43	2.79
Ironworkers:		
Vic. of Edgerton, Milton, Poolville & Evansville	14.08	2.85
Vic. of Jonesville, Shapier	17.00	2.375
Laborers:		
General	11.37	1.43
Mortar Mixers	11.62	1.43
Line Construction:		
Linemen	15.47	.65+ 10½%
Heavy Equipment Op.	13.92	.65+ 10½%
Light Equipment Op.	12.38	.65+ 10½%
Heavy Groundman Truck Driver	10.83	.65+ 10½%
Light Groundman Truck Driver	10.06	.65+ 10½%
Groundmen	8.51	.65+ 10½%
Painters:		
Brush & Structural Steel	13.10	1.81
Swing State	13.35	1.81
Spray	14.10	1.81
Plasterers	13.45	2.30
Plumbers & Steamfitters	17.25	2.30
Roofers	16.97	1.68
Sheet Metal Workers	16.80	2.11
Tile Setters	13.83	2.47
Power Equipment Operators:		
Group I	15.22	2.90
Group II	14.92	2.90
Group III	14.56	2.90
Group IV	14.44	2.90
Group V	13.88	2.90
Group VI	13.41	2.90

DECISION NO. WI82-2017 -	Basic Hourly Rates	Fringe Benefits
MOD. #1		
(47 FR 12031 - March 19, 1982)		
Green Lake, Marquette, Waupaca, Waushara and Winnebago Counties, Wisconsin		
Change:		
Asbestos Workers (except Marquette Co.)	$16.71	3.05
Marquette County	16.50	2.70
Boilermakers	16.12	2.825
Bricklayers & Stonemasons	12.75	2.15
Carpenters & Soft Floor Layers	13.76	1.91
Cement Masons	12.25	2.09
Electricians (all but lower part of Marquette and Green Lake Counties	15.59	1.10+ 7%
Southern Parts of Green Lake & Marquette Counties	15.54	1.19+ 12 3/4%
Elevator Constructors:		
Constructors	15.03	2.69
Helpers	10.52	2.69
Helpers (Prob.)	50%JR	

DECISION NO. WI82-2017(Cont'd)	Basic Hourly Rates	Fringe Benefits
Ironworkers:		
Extreme East Part of Co. Including Lake, Winnebago, Menasha, & Neenah Cos.	14.81	4.39
Remainder of Counties	14.08	2.85
Lathers	13.01	1.91
Millwrights & Piledrivermen	14.16	1.91
Painters:		
Brush & Structural Steel	13.35	1.60
Spray & Sandblasting	13.85	1.60
Plasterers	12.75	2.15
Plumbers:		
Waupaca & Townships of Menasha & Neenah	16.60	2.90
Marquette County	16.54	2.95+ 1%
Remainder of Counties	13.72	4.36
Roofers	11.75	2.35
Sheet Metal Workers	13.66	3.06
Tile Setters & Terrazzo Mechanic	12.75	2.15
Laborers:		
General	11.03	1.43
Plaster Tenders	11.13	1.43
Jackhammer	11.28	1.43
Power Equipment Operators:		
Group I	15.22	2.90
Group II	14.92	2.90
Group III	14.56	2.90
Group IV	14.44	2.90
Group V	13.88	2.90
Group VI	13.41	2.90

DECISION NO. WI82-2018 -	Basic Hourly Rates	Fringe Benefits
MOD. #1		
(47 FR 12033 March 19, 1982)		
Juneau County, Wisconsin		
Change:		
Asbestos Workers	$16.50	2.70
Boilermakers	16.12	2.825
Bricklayers	13.22	2.20
Carpenters:		
South of Hwy #21 & East of Country Trunk #80:		
Carpenters & Soft Floor Layers	13.76	1.91
Millwrights & Piledrivermen	14.16	1.91

CARPENTERS (Cont'd):	Basic Hourly Rates	Fringe Benefits
Camp Douglas, Buster, Elroy & Vic		
Carpenters & Soft Floor Layers	13.76	1.91
Millwrights & Piledrivermen	14.16	1.91
N. E. Section of County above Camp Douglas:		
Carpenters & Soft Floor Layers	13.76	1.91
Millwrights & Piledrivermen	14.16	1.91
Cement Masons	13.18	1.50
Electricians	15.13	.75+ 10½%
Elevator Constructors	15.03	2.69
Helpers	10.52	2.69
Helpers Probationary	50%JR	
Glaziers	15.08	1.58
Ironworkers	4.08	2.85
Laborers:		
General	11.62	1.43
Mortar Mixers	11.77	1.43
Jackhammer Operator	11.77	1.43
Lathers	13.76	1.91
Painters:		
Brush	12.53	1.00
Structural Steel	12.80	1.00
Swing Stage	12.85	1.00
Plasterers	13.08	.90
Plumbers & Steamfitters	17.00	2.30
Roofers	12.60	
Sheet Metal Workers	14.41	1.56
Tile Setters	12.25	1.90
Power Equipment Operators:		
Group I	15.22	1.90
Group II	14.92	1.90
Group III	14.56	1.90
Group IV	14.44	1.90
Group V	13.88	1.90
Group VI	13.41	1.90

SUPERSEDEAS DECISION

STATE: INDIANA
DECISION NO.: IN83-2026
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. IN80-2019 dated April 11, 1980 in 45 FR 24981
DESCRIPTION OF WORK: Building Construction Projects (Does not include single family homes & apartments up to & including 4 stories)
*CLAY, DAVIESS, GIBSON, GREENE, KNOX, MARTIN, PARKE, PIKE, POSEY, PUTNAM, SULLIVAN, VANDERBURGH, VERMILLION & VIGO

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	17.65	2.45
Area 2	17.20	2.00
BOILERMAKERS	18.83	3.405
BRICKLAYERS; Caulkers; Pointers; Cleaners and Stonemasons:		
Area 1	15.83	2.48
Area 2	15.43	2.35
CARPENTERS:		
Area 1:		
Carpenters & Soft Floor Layers	15.35	1.75
Piledrivermen	15.85	1.75
Area 2:		
Carpenters & Soft Floor Layers	15.02	1.99
Piledrivermen	15.40	1.99
Area 3:		
Carpenters & Soft Floor Layers	15.15	2.04
Piledrivermen	15.40	2.04
Area 4:		
Carpenters	15.78	3.25
Area 5:		
Carpenters	13.17	1.80
Piledrivermen	13.42	1.80
CEMENT MASONS:		
Area 1	13.05	1.05
Area 2	13.25	1.60
Area 3	14.82	2.35
Area 4	13.75	2.10
ELECTRICIANS:		
Area 1	17.30	1.88 + 3%
Area 2	17.18	.85+ 9½%
Area 3	16.95	16.5%
Area 4	17.57	1.15 +3½%
ELEVATOR CONSTRUCTORS:		
Area 1	16.37	2.465 +a&b
Area 2	15.39	2.35 +a&b
ELEVATOR CONSTRUCTORS' HELPERS:		
Area 1	70%JR	2.465 +a&b
Area 2	70%JR	2.35 +a&b
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	
GLAZIERS:		
Area 1	18.00	
Area 2	13.085	2.06
IRONWORKERS:		
Area 1	16.60	2.21
Area 2	15.25	4.05
LATHERS:		
Area 1	15.78	3.25
Area 2	15.79	1.70
MARBLE SETTERS; TILE SETTERS & TERRAZZO WORKERS:		
Area 1	14.80	2.20
Area 2	15.03	2.35
MARBLE, TILE & TERRAZZO FINISHERS:		
Area 1	12.68	
Area 2	14.86	
MILLWRIGHTS:		
Area 1	13.95	1.78
Area 2	15.62	1.99
Area 3	16.79	1.90
PAINTERS:		
Area 1:		
Brush; Roller, Drywall, & Paperhangers	14.30	1.48
Spray & Sandblasting	16.30	1.48
Area 2:		
Brush	15.00	
Spray	16.50	
Area 3:		
Brush, Paperhangers and Taper	10.65	.50
Spray	12.15	.50
Sandblasting	12.65	.50
Area 4:		
Brush & Roller	13.75	1.45
Spray	14.75	1.45
Drywall Tapers	14.00	1.45
PLASTERERS:		
Area 1	13.25	1.60
Area 2	15.43	2.35
Area 3	14.38	
Area 4	13.95	1.20

DECISION NO. IN82-2026

	Basic Hourly Rates	Fringe Benefits
PLUMBERS & STEAMFITTERS:		
Area 1	18.60	2.00
Area 2	18.92	2.20
ROOFERS:		
Area 1	12.20	.70
Area 2:		
Composition & water-proofers	12.50	1.15
Slate, Tile, Asbestos & Tile Asbestos & Precast Slab	12.75	1.15
Area 3:		
Composition & Water-proofers	12.28	1.45
Slate, Tile, Concrete Slab & Gypsum	12.53	1.45
SHEET METAL WORKERS:		
Area 1	17.68	2.75
Area 2	17.78	2.83
SPRINKLER FITTERS	16.67	2.83
LABORERS:		
Area 1:		
Group 1	10.73	1.84
Group 2	10.93	1.84
Group 3	11.03	1.84
Group 4	11.73	1.84
Area 2:		
Group 1	11.70	1.89
Group 2	11.90	1.89
Group 3	12.00	1.89
Group 4	12.70	1.89
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	14.73	2.15
Group 2	13.44	2.15
Group 3	12.68	2.15
Area 2:		
Group 1	13.70	1.58
Group 2	13.60	1.58
Group 3	13.40	1.58
Group 4	8.65	1.58

Basic Hourly Rates	Fringe Benefits

DECISION NO. IN82-2026

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:

a. 7 paid holidays: A through F & Day after Thanksgiving

b. Employer Contributes 8% of Regular Hourly Rate to Vacation Pay Credit for Employee who has worked in Business more than 5 years. 6% for Employee who has worked in business less than 5 years.

AREA DESCRIPTIONS

ASBESTOS WORKERS:

Area 1: Clay, Greene, Park, Putnam, Vermillion & Vigo Counties
Area 2: Remainder of Counties

BRICKLAYERS:

Area 1: Posey and Vanderburgh Counties
Area 2: Remainder of Counties

CARPENTERS:

Area 1: Clay (North of Hwy 246 including Brazil), Park except East of Twps. of Jessup, Rosedale, Carbondale, & Portland) Vermillion (South of Summit Grove) and Vigo Counties
Area 2: Remainder of Clay, Daviess, Gibson (Princeton), Green (excluding Twps. of Beech, Center & Jackson), Knox, Martin, Pike (Jefferson and Washington twps.), Posey, Sullivan and Vanderburgh Counties
Area 3: Remainder of Green County
Area 4: Remainder of Park, and Vermillion Counties
Area 5: Remainder of Pike county

CEMENT MASONS:

Area 1: Clay, Park, Putnam, Vermillion and Vigo Counties
Area 2: Daviess, Gibson, Knox, Martin and Pike Counties
Area 3: Green and Sullivan Counties
Area 4: Posey and Vanderburgh Counties

DECISION NO. IN83-2026

AREA DEFINITIONS (Cont'd)

ELECTRICIANS:

Area 1: Clay, Green, Knox, Sullivan & Vigo Counties
Area 2: Daviess, Gibson, Martin, Pike, Posey and Vanderburgh Counties
Area 3: Putnam County
Area 4: Vermillion County

ELEVATOR CONSTRUCTORS:

Area 1: Clay, Green, Park, Putnam & Vermillion Counties
Area 2: Remainder of Counties

GLAZIERS:

Area 1: Clay, Green, Parke, Putnam, Sullivan, Vermillion and Vigo Counties
Area 2: Remainder of Counties

IRONWORKERS:

Area 1: Gibson, Pike, Psoey & Vanderburgh Counties
Area 2: Remainder of Counties

LATHERS:

Area 1: Clay, Daviess (N½) Green Martin Parke, Vermillion and Vigo Counties
Area 2: Daviess (S½), Gibson, Knox, Pike, Posey and Vanderburgh Counties

MARBLE SETTERS; Tile Setters & Terrazzo Workers:

Area 1: Posey and Vanderburgh Counties
Area 2: Remainder of Counties

MARBLE, TILE & TERRAZZO FINISHERS:

Area 1: Gibson, Pike, Posey & Vanderburgh Counties
Area 2: Remainder of Counties

MILLWRIGHTS:

Area 1: Clay, Parke, Putnam, Vermillion and Vigo Counties
Area 2: Daviess, Gibson, Green, Knox, Martin and Sullivan Counties
Area 3: Pike, Posey and Vanderburgh counties

DECISION NO. IN83-2026

AREA DESCRIPTIONS (cont'd)

PAINTERS:

Area 1: Clay, Martin, Putnam Counties
Area 2: Green, Sullivan & Vigo counties
Area 3: Parke and Vermillion Counties
Area 4: Remainder of Counties

PLASTERERS:

Area 1: Daviess, Gibson, Knox and Martin Counties
Area 2: Green and Sullivan Counties
Area 3: Pike, Posey & Vanderburgh counties
Area 4: Remainder of Counties

PLUMBERS:

Area 1: Clay, Green, Parke, Putnam, Sullivan, Vermillion and Vigo Counties
Area 2: Remainder of Counties

ROOFERS:

Area 1: Clay, Green, Knox, Parke, Sullivan, Vermillion and Vigo Counties
Area 2: Putnam Counties
Area 3: Remainder of Counties

SHEET METAL WORKERS:

Area 1: Clay, Parke, Putnam, Sullivan, vermillion and Vigo Counties
area 2: Remainder of counties

LABORERS:

Area 1: Clay, Parke, Putnam, Sullivan, Vermillion and Vigo Counties
Area 2: Remainder of Counties

POWER EQUIPMENT OPERATORS:

Area 1: Gibson, Pike, Posey & Vanderburgh Counties
Area 2: Remainder of Counties

DECISION NO. IN83-2026

AREA DESCRIPTIONS (Cont'd)

LABORERS:

AREA 1

Group I: Building and Construction Laborers; Scaffold Builders (other thanf or Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Mason Tenders in Area I and IA; Portable Water Pumps with Discharge up to 3 inches

Group II: Waterproofing; hauling of Creosote Lumber or like treated material (ex railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Op.; Pneumatic Tool Op.; Air & Electric Vibrators and Chipping Hammer Op.; Earth Compactors; Jackman & Sheetmen in Ditches more than 6 feet Deep; Laborers in idtches 6' deep or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor Driven Wheelbarrows and Concrete Buggies; Hyster Op.; Pump Crete Assemblers; Core Drill Op.; Cement; Lime or Silica Clay Handlers; Handling of Toxic Materials Damaging to Clothing Pneumatic Spikers; Deck Engine & Winch Op.; Water Maine & Cable Ducking; Screed Man or Screw Op; on Asphalt Paver; Chain Saw & Demolition Saw Op.; Concrete Conveyor Assembler

GROUP III: Plaster Tenders; Mason Tenders ex in area I & IA; Motar Mixers; Welders; cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders for Plasterers; Scaffold Builders for Mason ex Area I & IA; Water Blast Mach. Op.

GROUP VI: Dynamite Men; Drillers - Air Tack or Wagon Drilling for Explosives

AREA 2

Group 1: Building & Construction Laborers; Scaffold Builders (other than for Plasterers); Ironworker Tenders; Mechanic Tenders; window Washers & Cleaners; Waterboys & Toolhousemen; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders Carpenter Tenders; All Portable Water Pumps with discharge up to three (3) inches; Plaster Tenders

DECISION NO. IN83-2026

AREA DESCRIPTIONS (Cont'd)

LABORERS - AREA 2 (Cont'd)

Group II: Waterproofing; Handling of Creosote Lumber of like treated material; (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; air Tool Operators and all Pneumatic Tool Operators Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors; Jackmen & Sheetmen working Ditches deeper than six (6) feet in depth; Laborers working in ditches (6) feet in depth or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field) & Sewer Pipe Layers (metallic or non-metallic); Motordriven Wheelbarrows and Concrete Buggies Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag) Handling of Toxic Materials; Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winches Operators; Water Main & Cable Ducking (metallic and non-metallic) Screed Man or Screw Operator on Asphalt Paver; Chain and Demolition Saw Operators; Concrete Conveyor Assemblers

GROUP III: Water Blast Machine Operator; Mortar Micers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when working for Plasterers

GROUP IV: Dynamite Men; Drillers-Air Track or Wagon Drilling for explosives

POWER EQUIPMENT OPERATORS

AREA 1

Group I: A-Frame Winch Truck, Air Compressors over 600 cu. ft., Air Tugger, Autograde (CMI), Auto Patrol, Backhoe, Ballast Regulator (RR), Batcher Plant (electrical control concrete), Bending Machine (pipe), Bituminous Plant (Engineer), Bituminous Mixer Travel Plant, Bituminous Paver, Bituminous Roller, Buck Hoist, Bull Dozer, Cable Way, Chicago Boom, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Paver, Concrete Pump (Crete), Crane, Craneman, Crusher Plant, Derrick, Derrick Boat, Dinkey, Dop Pots (pipeline), Dragline, Dredge Operator, Dredge Engineer, Drill Operator, Elevating Grader, Elevator, Ford Hoe (or similar type equipment), Forklift, Formless Paver, Gantry Crane, Gradeall, Grademan, Grout Pump, Helicopter Crew, Hetherington Paver, High-lift, Hoist, Hopto, Hough Loader (or similar type), Hydro crane, Hydro Hammer, Locomotive Crane, Locomotive, Mechanic, Mobile, Mixer, Motor crane, Mucking Machine, Multiple Tamping Machine (RR), Overhead Crane, Pile Driver, Pulls, Push Dozer, Push Boats, Roller (sheep foot), ross Carrier, Scoope, Shovel, Side Boom, Swing Crane, Tail Boom, Tar Machine (pipeline), Throttle Valve, Tower Crane, Trench Machine, welder (heavy duty), Truck mounted Concrete Pump, Truck-mounted Drill, Well Point, Whirleys.

DECISION NO. IN83-2026

AREA DESCRIPTIONS (Cont'd)

POWER EQUIPMENT OPERATORS AREA 1 (Cont'd)

Group 2: Compressor (up to 600 cu. ft.), Brakeman, Bull Float, Concrete Mixer (over 10S and under 21S), Concrete Spreader, or Puddler, Deck Engine, Drill Helper, Electric Vibrator Kompactor (earth or rock), Finishing Machine, Fireman, Greaser (on grease facilities servicing heavy equipment), Material Pump, Motor Boats, Motor Crane Oiler, Portable Loader, Post Hole Digger, Power Broom, Rock Roller, Roller-Wobble Wheel (earth and rock), Spike Machien (RR), Seaman Tiller, Spreader Rock, Sub Grader, Tamping Machine, truck Mounted Drill Oiler, Welding Machine, Widener (Apsco or simialr type)

Group 3: Air Compressor (under 200 cu. ft. per min.), Bituminous distributor, Cement Gun, Cocnrete Saw, Conveyor, Deck Hand Oiler, Earth Roller, Form Grader, Guardrail driver, Heater, Oiler, Paving Joint Machine, Power Traffic Signals, Steam Jenny, Vibrator, Water Pump "JLG" lifts and "scissor" lift or similar machine

AREA 2

Group 1: Master Mechanics

Group 2: Utility Operator

Group 3: Power Cranes, Draglines, Derricks, Electric Overhead Cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all Equipment, Tractor Highlift, Fork Lifts, Tournadozer, Mixer over 14S Capacity, Tournamixer, Two Drum Machine or Two Cage Hoists, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Truck Crane, Tournapoll, Tractor Operating Scoops, Bulldozer, Push Tractor Finishing Machine on Asphalt Large Rollers & Rollers on Asphalt, Gravel, Macadam and Brick Surface, Ross Carrier or Similar Machine, Gravel Precessing Machine, Asphalt Plant Engineer or Pug Mill, Two Air Compressor, Hetherington Paver Operator, Farm Tractor with half Yard Bucket and or Back Hoe Attachment, Trench Machines cutting over 24", Dredging Equipment, Central Mix Plant Engineer, CMI or similar type Machine, Concrete Spreader, Cherry Picker, Standard or Dinkey Locomotives Scoopmobiles, Euclid Loader, Soil Cement Machines, Back Filler, Elevating Machine, Power Blade, Asphalt Plant Engineer, Well Drilling Machines, Paint Machines, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Tractors without Winch, Head Equipment Greasers, Barber Green Loaders, Formless Paver, Well Point System Hydra Ax, Besco Concrete Saw, Marine, Scoops, Brush, Mulcher, Brush Burner, Mesh Placer Tree Mover

DECISION NO. IN83-2026

AREA DESCTIPTIONS (Cont'd)

POWER EQUIPMENT OPERATORS AREA 2 (Cont'd)

Helicopter Crew (3), Pile Driver Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self Propelled, Hydra Seeder, Straw Blower, Concrete Mixers with Skip, All one Drum Hoists with Tower or Boom, Dredge Engineer, Dredge Engineer, Dredge Operator, Rock Spreaker, Truck or Skid Mounted Tower Crane, Engine or Rock Crusher Plant, Boiler Operator, Concrete Plant Engineer, Loader, Hydra Crane, Caissons, Shaft or any similar type Drilling Machine, Concrete Curb Machine - Self Propelled Winch Hydraulic Boom Truck

Group 4: Mixers 14S capacity or less, Trench Machine cutting 24" and under, Farm Tractor with less than half yard bucket and other Attachments except Back Hoe, Truck Crane Oiler, Power Subgrader, Bull Float, Form Grader, Finishing Machine, Pavement Breaker, Rock Crushers, One Drum Machine, One Air Compressor, Concrete Pump, Gunite Machine, Air Tugger, Truck Crane Drivers, House Elevator when used for hositing Material, Two to Four Generators or welding Machine, Mechanized Heaters irrespective of Motor Power when used for temporary heat, Small Rollers on earth, Engine Tenders, Fireman, Wagon Drill, Flexplane, Conveyor, two ot Four Water POmps, Siphon and Pulsometer, Switchman, Fireman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Power Broom, Post Hole Diggers, Self-propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Track Jack, Mude Jack, Operators to do Winter Repair work in Shop between November 1st and March 1st Concrete Buggies Motor Driven Oilers, Barrel Type Mixer, One Welding Machine or One Water Pump, Air Valves or Steam Valves from Plant, Concrete Mixers without Skip, Curing Machine Concrete & Blacktop Curb Machine, Deck Hands

SUPERSEDEAS DECISION

STATE: MISSISSIPPI
DECISION NUMBER: MS83-1014
Supersedes Decision No.: MS81-1285 dated September 4, 1981 in 46 FR 44643.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION Projects (excluding single family homes and apartments up to and including 4 stories).

COUNTY: WARREN
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.29	$ 1.61
BOILERMAKERS	16.20	3.015
BRICKLAYERS:		
Bricklayers	12.75	.80
Stone,Block,Marble Masons		
Caulkers,Pointers, & Cleaners	12.75	.80
Tile & Terrazzo Workers	12.60	.80
CARPENTERS:		
Carpenters	12.20	.85
Millwrights	12.80	.85
Piledrivermen	12.80	.85
CEMENT MASONS	10.90	.80
ELECTRICIANS:	14.05	1.3
Electricians	14.05	1.39 + 3%
Cable Splicers	14.30	1.39 + 3%
ELEVATOR CONSTRUCTORS:		
Mechanics	12.08	2.69 +a+b
Helper	8.46	2.69 +a+b
GLAZIERS	11.37	
IRONWORKERS	13.20	1.89
LABORERS:		
Mortar Mixers	6.90	.50
Unskilled	6.65	.50
LATHERS	9.40	.80
PAINTERS:		
Brush	8.50	.60
Drywall Tapers	8.50	.60
Rollers	8.50	.60
Spray	9.00	.60
PLASTERERS	11.50	.80
PLUMBERS & PIPEFITTERS	12.74	1.27
POWER EQUIPMENT OPERATORS		
Group 1	10.53	.85
Group 2	9.73	.85
Group 3	9.48	.85
Group 4	8.88	.85
Group 5	7.23	.85
ROOFERS	11.70	.50
SHEET METAL WORKERS	14.05	1.05
SPRINKLER FITTERS	14.57	2.83
TRUCK DRIVERS:		
Group 1	7.25	.90
Group 2	7.84	.90
Group 3	9.15	.90

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)).

POWER EQUIPMENT OPERATORS: Classification Definitions.

Group 1: Engineer (operating under pressure).
Group 2: Mechanic
Group 3: Asphalt plant,backhoe,blacksmith,boom tractor,bulldozer,central mixing plant,cherry picker,clamshell,crane,derrick,derrick car,derrick boat, dragline,dredge,elevating grader,excavator (power belt),forklift (5 tons & over),hoists (2 drums in active use),locomotive engineer,marine engineer (chief),master pilot,mixer-mobile,motor patrol, and similar equipment,paver (21 C.F. or larger),piledriver,recharger,scoop(skimmer),scraper,shovel,trenching machine(over 18" bucket line width),turnapull (DW-10 & similar pull type scrapers),trascavator & similar endloaders,welder,welding machines & pumps (operating 2 to 6 machines),well driller,well point pumps.
Group 4: Asphalt spreader (bituminous distributor & mixer),backfilling machine, conveyor,drill (earth),finishing machine,fireman,forklift(over 2 tons & less than 5 tons),heating plant,hoist (1 drum),marine engineer's assistant,mixer payloader and similar endloader,pilot,power generating plant, pump(concrete), roller,scoopmobile,tractor(with power take-off),trenching machines (18" or smallerbucket line width),tugboat,winch truck and tractor,small rubber tire with backhoe attachment.
Group 5: Air compressor,batch scale,deckhand,forklift (2 tons & under),form grader,locomotive hostler,motor boat (in or outboards),oiler,pump,roughneck, scowman,tractor(with attachments),welding machine

Booms, including jib:
100 to 200 ft - 50¢ per hour above regular pay
201 to 300 ft - 75¢ per hour above regular pay
301 ft and over - $1.00 per hour above regular pay

TRUCK DRIVERS: Classifications Definitions

Group 1: Truck drivers on equipment up to but not including 1 1/2 tons, station wagons,jeeps, and automobiles,truck spotters.
Group 2: Truck drivers on equipment 1 1/2 tons & up but not including 5 tons.
Group 3: Truck drivers on equipment rated 5 tons or 6 yards & over, including heavy equipment such as pole trucks,miss or corning wagons,dumpsters, semi-drivers,agitators,ross carriers,dempsey dumps,euclid trucks, forklift trucks in warehouse and similar equipment, such as tractors, 10 wheelers,jeeps or dump trucks or pickup trucks pulling 2 or 4 wheel trailers hauling equipment.

FOOTNOTES:
a. Employer contributes 6% of basic hourly rate for 6 months to 5 years service & 8% for over 5 years service as vacation pay credit; also 7 paid holidays.
b. Two paid holidays.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ONONDAGAGA
DECISION NO.: NY83-3003 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY81-3022 dated April 3, 1981 in 46 FR 20437
DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.98	2.44
BOILERMAKERS	18.25	1.565+ 10%
BRICKLAYERS & STONE MASONS (Except Cicero & Dewitt townships)	14.99	2.07
CARPENTERS		
Building	13.53	2.92
Heavy & Highway	12.02	2.875
CEMENT MASONS (Cicero and Dewitt Townships):		
Building	12.45	2.40
Heavy & Highway	12.25	2.75+ a
ELECTRICIANS		
Elbridge and Skaneateles	15.85	2.12+ 3%
Remainder of County		
Electricians	15.70	3.25+ 3%
Cable splicers	16.80	3.25+ 3%
ELEVATOR CONSTRUCTORS	16.33	2.69+ b+c
ELEVATOR CONSTRUCTORS' HELPERS	11.43	2.69+ b+c
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	8.165	
GLAZIERS	13.20	.86
IRONWORKERS		
Structural, ornamental, machinery mover, reinforcing, rigger	14.85	4.10
Sheeter	15.10	4.10
Sheeter, bucker-up	14.97	4.10
LABORERS (BUILDING)		
Laborers	11.70	2.45
LABORERS (HEAVY & HIGHWAY)		
Class A	10.59	2.45+a
Class B	10.79	2.45+a
Class C	10.99	2.45+a
Class D	11.19	2.45+a
LATHERS	13.53	2.92
MARBLE, TILE & TERRAZZO WORKERS	12.87	2.05
MARBLE, TILE & TERRAZZO FINISHERS	11.41	2.05
MILLWRIGHTS & PILE-DRIVERS	12.695	4.57
PAINTERS:		
Brush & Roller	12.05	2.45
Taping	12.30	2.45
Spray; epoxy and special coatings brush and roll application	12.55	2.45
Epoxy and special coatings spray application	12.75	2.45
Sandblasting	12.90	2.45
Boatswain chair	12.80	2.45
Swing	12.70	2.45
Structural steel	12.65	2.45
Bridge	13.25	2.45
Sign	9.50	2.45
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)		
Class 1	15.29	3.25+d
Class 2	14.52	3.25+d
Class 3	12.95	3.25+d
Class 4	15.79	3.25+d
Class 5	17.29	3.25+d
Class 6	16.29	3.25+d
Class 7	16.20	3.25+d
Class 8	15.76	3.25+d
POWER EQUIPMENT OPERATORS (HEAVY AND HIGHWAY)		
Group I	14.31	3.25+a
Group II	13.84	3.25+a
Group III	12.51	3.25+a
Group IV	11.33	3.25+a
ROOFERS	14.15	3.25
SOFT FLOOR LAYERS	13.53	2.92
SPRINKLER FITTERS	16.92	2.63
STEAMFITTERS	15.895	3.07
TRUCK DRIVERS (BUILDING)		
Truck Drivers	12.85	2.05
Mechanics	13.05	2.05
Euclids	13.25	2.05

DECISION NO. NY83-3003

Welders - Receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

FOOTNOTES:

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

a. 6 paid holidays: A through F, provided employee works day before and day after the holiday
b. 7 paid holidays: A through F, plus day after Thanksgiving.
c. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
d. 6 paid holidays: A through F providing employee has worked 5 consecutive days before and the working day after the holiday

DECISION NO. NY83-3003

CLASSIFICATIONS

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helpers, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

Class 1: Asphalt and blacktop roller; Automated concrete spreader (CMI or equivalent); Automated fine grade machine (CMI); Backhoe; Belt placer; Blacktop spreader (such as Barber Greene and BlawKnox); Blacktop Plant (automated); Blast or rotary drill (truck or cat mounted); Boom truck; Cableway; Caisson auger; Carry-all-scraper-self loading; Central Mix plant (automated); Cherry picker over five (5) ton capacity; Compressors; Pump; Generator or welding machine (when used in a battery of not more than four (4); Crane, Crusher-rock; Derrick; Diesel power unit; Dragline; Dredge; Dual drum paver; Elevating grader (self-propelled or towed); Elevator hoist - two cage; Excavator - all purpose - hydraulically operated; Fork lift (factory rating 15 ft. or more); Front end loader (4 c.y. and over); Gradall; Grader (power); Head tower (Saur man or equal); Hoist (2 or 3 drums); Locomotive; Maintenance engineer; Maintenance welder; Mine hoist; Mucking machine or mole; Overhead crane fixed permanent; Pile driver; Quarry Master or equivalent; Refrigeration equipment - for soil -tabilization; Shovel; Side boom; Slip form paver; Straddle buggy (Roos carrier, Lumber carrier) Tractor drawn belt type loader (Euclid loader); Trenching machine (digging capacity of over 4 ft. depth); Truck crane operator; Tunnel shovel; Vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

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POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION (CONT'D):

Class 2: "A" Frame truck; Blacktop plant (non-automatic); Boring machine; Bulldozer; Cage hoist; Carry-all scraper; Central mix plant (non-automated); Cherry picker five (5) tons and under; Compressor (500 c.f. and over); Concrete paver (single drum over 16S); Concrete pump; Core boring machine; Drill rigs-tractor mounted; Elevator - as a material hoist; Fork lift (factory rating less than 15 ft.); Front end loader (under 4 cu. yds.); Gunnite machine; High pressure boiler (15 lbs. and over); Hoist (one drum); Hydraulic breaking hammer (Drop hammer); Kolman plant loader (screening gravel); Maintenance grease man; Mixer for stabilized base - self-propelled (seaman mixer); Monorail machine; Parapet concrete or pavement grinder; post hole digger (truck or tractor mounted); Power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; Road widener (front end of grader or self-propelled); Shell winder (motorized); Snorkel (overhead arms); Roller; Trenching machine (digging capacity of 4 ft. or less); Tugger hoist; Vibro tamp; Well drill; Well point system (submersible pumps when used in lieu of well-point system); Winch (motor driver); Winch cat; Winch truck

Class 3: Compressor (under 500 cu. ft.); Concrete paver or mixer (under 16S); Concrete pavement spreaders and finishers (not automated); Conveyor (over 12 ft.); Electric submersible pump (4" and over); Farm tractor with or without accessories; Fine grade machine (not automated); Fireman; Form tamper; Generator (2,500 watts and over); Hydraulic pump; Grout pump; Mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacturer's rating); Mulching machine; Oiler; Power driven welding machine - 300 amp. and over (other than all electric); Power heaterman (hay drier), Pump (under 4"); Revinius widner (road widener); Steam cleaner or Jenny; Tractor with or without towed accessories, post driver (truck or tractor mounted)

Class 4: Quad 9 bulldozer or multibowl scraper

Class 5: Crane or Derrick with a boom length over 300 ft. including jib

Class 6: Crane or Derrick with a boom length over 150 ft. including jib, and on a piledriver with leads or boom length over 100 ft.

Class 7: Master mechanic

Class 8: Assistant master mechanic

DECISION NO. NY83-3003

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker, (over 5 tons capacity) concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purposes-hydraulically operated) (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power garder, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn tractor drawn belt-type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders, locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system). Light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

DECISION NO. NY83-3003

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION Electrical Overhead & Underground Distribution Work & Signal Work For RR And For R.E.A. Where No Other Trade Is Or Has Been Involved		
Journeyman Lineman & Technician	13.22	5%+3.60 +a
Cable Splicer	17.59	5%+3.60 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	11.90	5%+3.60 +a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	10.58	5%+3.60 +a
Groundman Truck Driver (Tractor Trailer)	11.24	5%+3.60 +a
Driver Mechanic, Groundman - Experienced	9.92	5%+3.60 +a
All Overhean Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Techanician	15.18	5%+3.60 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	13.66	5%+3.60 +a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	12.14	5%+3.60 +a
Groundman Truck Driver (Tractor Trailer Unit)	12.90	5%+3.60 +a
Driver Mechanic Groundman - Experienced	11.39	5%+3.60 +a

	Basic Hourly Rates	Fringe Benefits
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lightling & Signal Systems Where Other Trades Involved		
Journeyman Lineman & Technician	15.99	5%+3.60 +a
Cable Splicer	17.59	5%+3.60 +a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.39	5%+3.60 +a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	12.79	5%+3.60 +a
Groundman Truck Driver (Tractor Trailer Unit)	13.59	5%+3.60 +a
Driver Mechanic, Groundman-Experienced	11.99	5%+3.60 +a
All Pipe type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	15.99	5%+3.60 +a
Certified Lineman Welder	16.79	5%+3.60 +a
Cable Splicer	17.59	5%+3.60 +a
Groundman Equipment Operator	15.99	5%+3.60 +a
Groundman Truck Driver (Tractor Trailer Unit)	13.59	5%+3.60 +a
Groundman Truck Drivers	12.79	5%+3.60 +a
Groundman	11.99	5%+3.60 +a

FOOTNOTE:
a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: OH83-3027
COUNTIES: ATHENS, MEIGS, & MORGAN
DATE: Date of Publication
Supersedes Decision No. OH81-2014, dated April 10, 1981 in 46 FR 21589
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 MECHANICS	7.00	
BRICKLAYERS	8.04	
CARPENTERS	6.50	
CEMENT MASONS	6.50	
DRYWALL FINISHERS & TAPERS	6.58	
DRYWALL HANGERS	6.50	
ELECTRICIANS	6.50	
LABORERS, Common & Landscape	5.00	
PAINTERS	6.50	
PLUMBERS	6.50	
ROOFERS	6.00	
SHEET METAL WORKERS	6.50	
SOFT FLOOR LAYERS; Carpet Layers	6.50	
TILE SETTERS	6.50	
POWER EQUIPMENT OPERATORS:		
Backhoes	7.48	
Bulldozers	7.31	
Cranes	7.31	
Front End Loaders	6.52	
TRUCK DRIVERS	6.10	

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: Utah
DECISION NUMBER: UT83-5108
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. UT82-5121 dated September 3, 1982, in 47 FR 39085
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.80	$3.35
BOILERMAKERS	15.91	3.86
BRICKLAYERS:		
Industrial	13.25	1.57
All Other work	10.00	1.57
CARPENTERS:		
Building Construction:		
Carpenters	12.65	1.95
Saw Operators; Carpenters handling creosote materials	12.80	1.95
Millwrights	13.40	1.95
Piledrivermen	14.33	1.95
Heavy and Highway Construction:		
Zone 1:		
Carpenters	13.83	1.95
Saw Operators; Carpenters handling creosote materials	14.08	1.95
Millwrights	13.50	1.83
Piledrivermen	18.79	1.95
Zone 2:		
Carpenters	16.33	1.95
Saw Operators; Carpenters handling creosote materials	15.58	1.95
Millwrights	13.50	1.83
Piledrivermen	18.79	1.95
CEMENT MASONS:		
Building Construction:		
Cement Masons	12.14	2.02
Machine Operator; Mastic Floor Materials	12.54	2.02
Heavy and Highway Construction:		
Zone 1:		
Cement Masons	12.14	1.80
Machine Operator; Mastic Floor Materials	12.39	1.80
CEMENT MASONS: (Cont'd)		
Heavy and Highway Construction: (Cont'd)		
Zone 2:		
Cement Masons	$14.14	$1.80
Machine Operator; Mastic Floor Materials	14.39	1.80
Zone 3:		
Cement Masons	14.54	1.80
Machine Operator; Mastic Floor Materials	14.79	1.80
DRYWALL INSTALLERS:		
Taping, finishing and texturing (hand or machine)	13.04	1.44
ELECTRICIANS:		
Area 1:		
Zone 1:		
Electricians; Technicians	16.05	2.00+ 3-8/10%
Cable Splicers	16.30	2.00+ 3-8/10%
Zone 2:		
Electricians; Technicians	16.80	2.00+ 3-8/10%
Cable Splicers	17.25	2.00+ 3-8/10%
Zone 3:		
Electricians; Technicians	17.55	2.00+ 3-8/10%
Cable Splicers	17.80	2.00+ 3-8/10%
Zone 3A:		
Electricians; Technicians	16.00	1.75+ 3-3/10%
Cable Splicers	16.25	1.75+ 3-8/10%

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS: (Cont'd)		
Area 1: (Cont'd)		
Zone 4:		
Electricians; Technicians	$20.05	$2.00+ 3-8/10%
Cable Splicers	20.30	2.00+ 3-8/10%
In Zones 2, 3, and 3A, on any job or project not exceeding $250,000.00 electrical, labor and material included, Zone 1 rate shall apply.		
Area 2:		
Zone 1A:		
Electricians; Technicians	17.50	2.25+ 3-8/10%
Cable Splicers	18.00	2.25+ 3-8/10%
Zone 1B:		
Electricians; Technicians	18.25	2.25+ 3-8/10%
Cable Splicers	18.75	2.25+ 3-8/10%
Zone 1C:		
Electricians; Technicians	19.00	2.25+ 3-8/10%
Cable Splicers	19.50	2.25+ 3-8/10%
Zone 2:		
Electricians; Technicians	21.50	2.25+ 3-8/10%
Cable Splicers	22.00	2.25+ 3-8/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.06	2.695+a
Helpers	10.54	2.695+a
Probationary Helpers	7.53	
GLAZIERS:		
Area 1	19.23	1.23
Area 2	13.20	1.31
IRONWORKERS:		
Fence Erectors; Ornamental; Reinforcing; Structural	$14.85	$3.15
LINE CONSTRUCTION WORKERS:		
Groundman	11.65	3%%+.95
Line Equipment Serviceman	14.32	3%%+.95
Line Equipment Mechanic:		
Base Shop	14.32	3%%+.95
Right-of-Way	15.30	3%%+.95
Line Equipment Operators	14.56	3%%+.95
Linemen	16.17	3%%+.95
Cable Splicers	17.81	3%%+.95
MARBLE SETTERS	12.02	1.62
MASON TENDERS	11.02	.85
PAINTERS:		
Area 1:		
Brush; Roller	11.92	1.36
Spray; Sandblast; Steeplejack; Brush, steel and bridge; Brush (swing stage)	12.17	1.36
Spray (swing stage); Sandblaster (swing stage); Spray, steel and bridge	12.37	1.36
Area 2:		
Brush; Roller	12.90	1.23
Brush (swing Stage); Brush (steel and bridge); Spray, Sandblaster, Steeplejack	13.20	1.23
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	13.45	1.23
Wallcovering Hanger	13.15	1.23
PLASTERERS' TENDERS	12.10	.85
PLASTERERS	13.44	1.30
PLUMBERS:		
Pipefitters	16.28	2.46
ROOFERS	14.03	1.02
SHEET METAL WORKERS	15.60	2.67
SPRINKLER FITTERS	15.92	2.83
TERRAZZO WORKERS and TILE LAYERS	12.02	1.62

	Basic Hourly Rates	Basic Hourly Rates
LABORERS:		
Building Construction:		
Group 1	$8.92	
Group 2	9.92	
FRINGE BENEFITS: $1.44		
Heavy and Highway Construction:	AREA 1	AREA 2
Group 1	$10.77	$13.27
Group 2	10.90	13.40
Group 3	11.02	13.52
Group 4	11.27	13.77
Group 5	11.77	14.27
Tunnel and Shaft Work:		
Group 1	10.92	13.42
Group 2	11.02	13.52
Group 3	11.22	13.72
Group 4	11.67	14.17
FRINGE BENEFITS: $3.585		
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Group 1	10.78	12.78
Group 2	11.17	13.17
Group 3	11.37	13.37
Group 4	11.48	13.48
Group 5	11.99	13.99
Group 6	12.16	14.16
Group 7	12.28	14.28
Group 8	12.61	14.61
Group 9	12.68	14.68
Group 10	12.84	14.84
Group 11	13.02	15.02
Group 12	13.51	15.51
Group 13	14.47	16.47
Group 14	14.96	16.96
Group 15	15.24	17.24
FRINGE BENEFITS: $4.585		
Heavy and Highway Construction:		
Group 1	14.01	16.51
Group 2	14.36	16.86
Group 3	14.54	17.04
Group 4	14.65	17.15
Group 5	15.11	17.61

	Basic Hourly Rates	Basic Hourly Rates
POWER EQUIPMENT OPERATORS: (Cont'd):	AREA 1	AREA 2
Heavy and Highway Construction: (Cont'd):		
Group 6	$15.26	$17.76
Group 6-A	15.37	17.87
Group 7	15.67	18.17
Group 7-A	15.73	18.23
Group 8	15.79	18.29
Group 9	15.95	18.45
Group 10	16.39	18.89
Group 10-A	17.35	19.85
Group 10-B	17.80	20.30
Group 11	17.96	20.46
FRINGE BENEFITS: $5.87		
Steel Erection:		
Group 1	14.79	
Group 2	15.33	
Group 3	16.81	
Group 4	17.00	
Group 4-A	17.46	
Group 5	18.18	
Group 6	18.79	
Group 7	19.23	
Group 8	19.65	
Group 9	21.15	
Piledriving:		
Group 1	14.12	
Group 1-A	14.61	
Group 1-B	14.90	
Group 2-A	14.90	
Group 2-B	15.68	
Group 2-C	15.98	
Group 2-D	16.20	
Group 3	16.41	
Group 3-A	17.04	
Group 4	17.82	
Group 5	18.09	
Group 6	19.71	
FRINGE BENEFITS: $5.87		

	Basic Hourly Rates	Basic Hourly Rates
TRUCK DRIVERS:	AREA 1	AREA 2
Dump Trucks - water level capacity (bottom, end, and side)(including Dumpster Truck, Turnawagons, Turnarockers and Dumpcrete):		
Less than 8 cu. yds.	$13.55	$16.05
8 cu. yds. and less than 14 cu. yds.	13.70	16.20
14 cu. yds. and less than 35 cu. yds.	13.85	16.35
35 cu. yds. and less than 55 cu. yds.	14.05	16.55
55 cu. yds. and less than 75 cu. yds.	14.25	16.75
75 cu. yds. and less than 95 cu. yds.	14.45	16.95
95 cu. yds. and less than 105 cu. yds.	14.65	17.15
105 cu. yds. and less than 130 cu. yds.	14.77	17.27
All 130 cu. yds. and over to be paid ($0.005) per cu. yd. capacity per hour in addition to rate for 105 yds. and less than 130 yds.		
Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-trailer (carrying capacity):		
Pickup	13.375	15.875
Less than 10 tons	13.45	15.95
10 tons and less than 15 tons	13.60	16.10
15 tons and less than 20 tons	13.70	16.20
20 tons and over	13.85	15.35
Transit Mix Trucks:		
Less than 8 cu. yds.	13.775	16.275
Over 8 to 14 cu. yds.	13.875	16.375

	Basic Hourly Rates	Basic Hourly Rates
TRUCK DRIVERS: (Cont'd)	AREA 1	AREA 2
Concrete Pumping Trucks	$13.775	$16.275
Water, Fuel and Oil Trucks:		
less than 1200 gallons	13.425	15.925
1200 gallons to less than 2500 gallons	13.55	16.05
2500 gallons to less than 4000 gallons	13.70	16.20
4000 gallons to less than 6000 gallons	14.00	16.50
6000 gallons to less than 10,000 gallons	14.25	16.75
10,000 gallons to less than 15,000 gallons	14.50	17.00
15,000 gallons to less than 20,000 gallons	14.75	17.25
20,000 gallons to less than 25,000 gallons	15.00	17.50
25,000 gallons and over	15.25	17.50
Oiler Spreader Operator where Boot Man is not required)	14.25	16.75
Fork Lift, Straddle Truck	13.75	16.25
FRINGE BENEFITS: $4.17		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

AREA and ZONE DESCRIPTIONS

CARPENTERS:
Heavy and Highway Construction:
Zone 1: Area 0 to 40 road miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, and Vernal
Zone 2: Area 40 to 60 road miles from the Cities listed in Zone 1
Zone 3: Area over 60 road miles from the Cities listed in Zone 1

CEMENT MASONS:
Heavy and Highway Construction:
Zone 1: Area 0 to 40 road miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, and Vernal
Zone 2: Area 40 to 60 road miles from the Cities listed in Zone 1
Zone 3: Area over 60 road miles from the Cities listed in Zone 1

ELECTRICIANS:
Area 1: North section of Utah - Box Elder and Cache Counties; Davis County (north of 41st Parallel); Morgan, Rich, and Weber Counties:
Zone 1: That area 10 miles on either side of Interstate Highway #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Highway #91 - Interstate #15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Highway #91
Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel in Cache, Morgan, Weber Counties

AREA and ZONE DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 1: (Cont'd)
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Highway #83
Zone 3A: That area from a point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91
Zone 4: All other area west of Zones 3 and 3A in Box Elder County

Area 2: South section of Utah (Remaining Counties):
Zone 1: Davis County (south of 41st Parallel); Salt Lake County; Tooele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5°, thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel):
Zone 1A: Ten miles either direction (east or west) from Interstate Highway #15, bounded on the north by the 41st Parallel and on the south by the 40th Parallel
Zone 1B: The balance of Zone 1 that lies in Davis, Salt Lake, and Utah Counties
Zone 1C: That portion of the remainder of Zone 1 that lies in Tooele County
Zone 2: Remainder of Counties and all portions of Counties not included in Zone 1 of the south section of Utah

GLAZIERS:
Area 1: Iron and Washington Counties
Area 2: Remaining Counties

PAINTERS:
Area 1: Box Elder, Cache, and Rich Counties; and the following Counties north of an east-west line from the north boundary of Farmington: Davis, Morgan, Summit, Tooele, and Weber Counties
Area 2: Remainder of State

LABORERS
Building Construction

Group 1: Laborers

Group 2: Powdermen and Drillers

Heavy and Highway Construction

Group 1: General Laborers

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump Head Hoseman; Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., Compressor, Compactor, Jackhammer, Vibrator, Concrete Saw, Chain Saw and Concrete Cutting Torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

Tunnel and Shaft Work

Group 1: Underground Laborers

Group 2: Brakeman; Chucktender; Dumpman; Powderman Tender; Puddler; Nipper; Tapman; Vibrator; Screedman

Group 3: Cutting Machine Operator; Drill Doctor; Finisher; Gunite Gunman; Miner; Powder Makeup Man; Spader and Tugger; Steelman; Gunite Groundman; Gunite Nozzleman; Gunite Rodman; Concrete Head Hoseman

Group 4: Shifter

POWER EQUIPMENT OPERATORS
BUILDING Construction

Group 1: Assistant to Engineer; Elevator Operators; Hydraulic Monitor; Material Loader or Conveyor Operators

Group 2: Air Compressor Operator; Concrete Mixer Operator (skip-type); Concrete Pump or Pumpcrete Gun Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Truck Crane Oiler

Group 3: Front End Loader (up to and including 1 cu. yd., struck M.R.C.); Hoist Operator - 1 drum; Slip Form Pumps

Group 4: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 5: A-Frame Truck and Tugger Hoist; Fork Lift (construction job site); Kolman Loader and similar; Loader Operator (over 1 cu. yd. to and including 2 cu. yds. struck M.R.C.); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired Tractor (with attachments, including Backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Gradesetter

Group 6: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (Well or Diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's Foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without Dozer

Group 7: Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or boom attachment, up to and including D-7 or similar)

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 9: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or Boom Attachment, larger than D-7 or similar)

Group 10: Motor Patrol

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Group 11: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.)(up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount); Tower Crane (Linden type or similar designs and capacity)

Group 12: Remote Controlled (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 13: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 14: Operator of Helicopter (when used in erection work)

Group 15: Cranes over 125 tons

Heavy and Highway Construction

Group 1: Assistant to Engineer; Brakeman - Locomotive; Elevator Operator; Fireman; Asphalt Plant Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - field; Repairman Tender - field

Group 2: Boxman, asphalt plant; Air Compressor Operator; Concrete Mixer Operator (skip type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinky Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Screedman; Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Truck Crane Oiler (Assistant to Engineer)

Group 3: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper, multiple purpose; Front End Loader (up to and including 1 cu. yd. struck M.R.C.); Hoist Operator, 1 drum Line Master; Slip Form Pumps

Group 4: Batch Operator (asphalt plant); Air Compressor Operator (2 or more compressors); Concrete Conveyor, building site; Lube and Service engineer (mobile and grease rack); Motorman; Pavement Breaker Operator (Emsco and similar type); Shuttlecar; Signalman; Slurry Seal Machine or similar; Small rubber-tired Tractor; Small self-propelled pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 5: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled unit on streets, highways, airports and canals); Engineer - Locomotive; Forklift (construction jobsite); Gradesetter; Holman Loader (and similar); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Ross Carrier or similar type; Small rubber-tired Trenching Machine; Small rubber-tired tractor (with attachments, including Backhoe; Small Tractor with boom; Surface Heater (self-propelled); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. *struck M.R.C.)

Group 6: Bridge Crane; Chip Box Spreader (Flaherty type and similar); Concrete Conveyor or Concrete Pump, truck or equipment mounted, boom length to apply; Concrete Mixer Operator (paving or batch plant); Concrete Pipe Floater Operator; Deck Engineer (Marine); Drilling Machine Operator (Well or Diamond); Drilling and Boring Machinery, horizontal and vertical (not to apply to waterliners, wagon drills, or jack hammers); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Mechanical Burm, Curb and/or Curb and Gutter Machine, concrete or asphalt; Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor combination; Pavement Breaker, truck mounted, Compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Compactor (with multiple-propulsion power units); Self-propelled Pipeline Wrapping Machine Perault, CRC, or similar types); Self-propelled Compactor with or without Dozer; Slusher Operator; Tractor Operator (Sheep's Foot and Compacting Equipment); Tractor Compressor Drill Combination; Trenching Machine

Group 6-A: Side Boom Operator; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or Boom attachment, up to and including D-7 or similar)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 7: Asphalt Plant Engineer; Chicago Boom (including Stiff Leg and Sheer Pole); Combination Backhoe and Loader (3/4 cu. yds. or over M.R.C.); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Do-more Loader and Adams Elegrader; Engineer, Crushing Plant; Euclid Loader and similar types; Loader Operator (over 2 cu. yds. up to and including 6 cu. yds. "struck" M.R.C.); Koehring Skooper (or similar)(up to 5 cu. yds. "struck" M.R.C.); Mechanical Trench Shield; Mucking Machine Operator Rubber-tired Scrapers (under 35 cu. yds. "Struck" M.R.C.); Saurman type Dragline (under 5 cu. yds. "struck" M.R.C.); Self-propelled Boom-type lifting device (center mount)(10-ton capacity or less M.R.C.); Self-propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Tri Batch Paver; Tunnel Mole (or similar)

Group 7-A: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or boom attachment, larger than D-7 or similar); Rubber-tired Dozer

Group 8: Combination Mixer and Compressor (gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity); D-10, Komatsu 455 and over

Group 9: DW-10, 20, etc. (Tandem Scrapers); Loader Operator (over 6 cu. yds. up to and including 12 cu. yds. "struck" M.R.C.); Highline Cableway Operator; Lift Slab Machine (Vagtborg and similar types); Locomotive (over 100 tons) (single or multiple units); Prestress Wire Wrapping Machine; Saurman-type dragline (5 cu. yds. and over "struck" M.R.C.); Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tractor (Tandem Scrapers); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.) (up to and including 5 cu. yds. "struck" M.R.C.); Hydraulic Backhoe, tractor mounted, rubber tired, ext., 3/4 yd. and over

Group 10: Automatic Concrete Slip Form Paver; Koehring Skooper (or similar)(5 cu. yds. and over "struck M.R.C.); Multiple-propulsion Power Unit Earthmovers (up to and including 75 cu. yds. "struck" M.R.C.); Power Equipment with shovel-type controls (over 5 cu.yds. up to and including 7 cu. yds. "struck" M.R.C.); Remote-controlled Cranes and Derricks; Rubber-tired Scrapers (35 cu. yds. and over "struck" M.R.C.); Self-propelled Boom-type lifting device (center mount)(over 25 tons M.R.C.); Slip Form Paver (concrete or asphalt); Sub-grader (automatic Sub-grader - Fine Grader, CMI or similar); Tandem Tractors; Tower Cranes Mobile

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 10-A: Loader Operator (over 12 cu. yds. "struck" M.R.C. up to 18 cu. yds. M.R.C.); Multi-purpose Earthmoving Machines (2 or more scrapers)(over 75 cu .yds. "struck" M.R.C.); Power Shovels and Draglines (over 7 cu. yds. "struck" M.R.C.); Holland Loader (60" belt)

Group 10-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 11: Cranes over 125 tons

STEEL ERECTION

Group 1: Assistant to Engineer (Oiler)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over)(structural steel or tank erection only); Assistant to Engineer (truck crane oiler)

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Forklift; Signalman (using mechanical equipment)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual Purpose A-frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes and Trucks Cranes (15 tons M.R.C. or less); Single drum Hoist; Self-propelled Boom-type lifting device (center mount)(10 ton capacity or less M.R.C.); Tugger Hoist; Overhead Cranes (15 tons M.R.C. or less)

Group 6: Crawler Cranes and Trucks Cranes (over 15 tons M.R.C.); Cary Lift, Campbell or similar; Derricks; Gantry Rider (or similar equipment); Highline Cableway; Two or more drum Hoist; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile (including rail mounted); Universal Liebber and Tower Cranes (and similar types); Overhead Cranes (over 15 tons M.R.C.)

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)
PILEDRIVING

Group 1: Deckhand; Fireman; Oiler

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler (Assistant to Engineer)

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Forklift Operator

Group 2-C: Compressor Operator (over 2); Generator; Pumps; Welding Machine (powered other than by electricity)

Group 2-D: A-Frames

Group 3: Deck Engineer; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operator or Piledriving Rigs, skid or floating and Derrick Barges; Operator of diesel or gasoline powered Crane Pilderiver (without boiler) (up to and including 1 cu. yd. rating); Truck Crane Operator (up to and including 25 tons) (hoisting material only); Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Pile-driver (without boiler)(over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons)

Group 6: Cranes (over 125 tons)

UNDERGROUND and SHAFT WORK:
Underground Work: Employees working underground shall receive $0.30 per hour in addition to their straight-time hourly rate.

Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $0.50 per hour in addition to their straight-time hourly rate

AREA DESCRIPITONS
LABORERS
(Heavy and Highway Construction)

POWER EQUIPMENT OPERATORS

TRUCK DRIVERS

AREA 1: All area included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S.E. corner of township 24 south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;
Thence northerly to the S.E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east
Thence westerly along the southerly line of township 8 south to the S.E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S.E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian, thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;

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BILLING CODE 4510-27-C

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning. Commencing at the intersection of the Utah/Colorado border to the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.E. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning.

AREA 2: All areas not included in Area 1 as defined.

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))

federal register

Friday
March 25, 1983

Part III

Department of the Interior

Minerals Management Service

Outer Continental Shelf, Mid-Atlantic Oil and Gas Leases Offering; and Notice of Leasing Systems; April 1983

Billing Code 4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
Minerals Management Service
Outer Continental Shelf, Mid-Atlantic
Oil and Gas Lease Offering
April, 1983

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR 256, formerly 43 CFR Part 3300; see the Federal Register at 47 FR 47006, October 22, 1982). A revision of these regulations appeared in the Federal Register of June 16, 1982, at 47 FR 26031 and 25967.

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Atlantic Outer Continental Shelf (OCS) Region, Minerals Management Service, Jacob K. Javits Federal Building, 26 Federal Plaza, Suite 32-120, New York, New York 10278. Bids may be delivered, either by mail or in person, to the above address until the Bid Submission Deadline at 4:30 p.m., e.s.t., April 25, 1983. Bids will not be accepted on April 26, 1983, the day of Bid Opening. Bids received by the Regional Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the Regional Manager prior to 4:30 p.m., e.s.t., April 25, 1983. Bids may not be withdrawn unless written withdrawal is received by the Regional Manager prior to 9:00 a.m., e.s.t., April 26, 1983. Bid Opening Time will be 10:00 a.m., e.s.t., April 26, 1983 at the Vista International Hotel, New Amsterdam Ballroom, 3 World Trade Center, New York, N.Y. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this offering was published in 47 FR 44166, October 6, 1982.

3. Method of Bidding. Tract numbers will not be used. A separate bid in a sealed envelope, labeled, "Sealed Bid for Oil and Gas Lease (insert offering name, map number(s) and name(s) (if applicable), and block number(s)), not to be opened until 10 a.m., e.s.t., April 26, 1983," must be submitted for each block (or prescribed bidding unit) bid upon. For example, a bid on the first block appearing on the block list for this offering would identify the block as follows: "Mid-Atlantic (April 1983) NK 18-12 (New York) Block 701". Paragraph 12, "Block Descriptions", lists which blocks must be bid on together as a single "bidding unit." For a bid on a "bidding unit," the sealed envelope containing the bid must be labeled with all blocks included in the "bidding unit." A suggested bid form appears in 30 CFR Part 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than a full block or bidding unit as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Partnerships also need to submit a list of signatories authorized to bind the partnership. All documents must be executed in conformance with signatory authorizations on file. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this offering will provide for a yearly rental payment of $8 per hectare or fraction thereof. Leases awarded under 4(b), (c), and (d) will provide for a minimum royalty of $8 per hectare or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a Fixed Net Profit Share. Bids on the following blocks must be submitted on a cash bonus basis with a fixed net profit share rate of 30 percent and a capital recovery factor of 1.50:

Official Protraction Diagram No. NJ 18-6.

412 499
456 629

The net profit share payment shall be calculated according to the regulations previously codified in 10 CFR 390 (originally promulgated by the Department of Energy, 45 FR 36784, May 30, 1980). The Department of the Interior has redesignated those regulations as 30 CFR Part 261; see the Federal Register at 48 FR 1181, January 11, 1983.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on the following blocks must be submitted on a cash bonus basis with the percent royalty due in amount or value of production fixed according to the sliding scale formula described following the list of blocks:

Official Protraction Diagram No. NJ 18-3.

17-35	61-79	105-123	149-162	165-167
193-205	209-211	246-255	293-299	337-342
378	381-385	422	428	466

Official Protraction Diagram No. NJ 18-5.

603-613	647-657	691-701	735-745	779-789
823-833	867-877	911-921	955-965	999-1009

Official Protraction Diagram No. NJ 19-1.

10-16	54-58	98-101	142-144	186-187
230				

Official Protraction Diagram No. NJ 18-6.

490	534	573-578	617-622	661-666
705-709	749	752	793	837
881	884	925-927	969	

Official Protraction Diagram No. NJ 18-8.

764-778	808-822	852-866	894-906	938-950
982-996				

Official Protraction Diagram No. NJ 18-11.

14-28	58-72	101-116	145-160	189-204
233-248	277-292	321-335	365-379	409-423
453-467	497-511			

Official Protraction Diagram No. NK 18-12.

701-702	744-746	787-790	829-834	872-878
915-922	958-966	1001-1010		

Official Protraction Diagram No. NK 19-10.

242-247	285-291	327-335	370-379	413-423
456-467	499-511	541-555	584-599	627-643
669-687	713-731	757-775	801-819	845-863
889-902	933-944	977-986		

The following formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: When the quarterly value of production, adjusted for inflation, is less than or equal to $15.929025 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $15.929026 million, but less than or equal to $3423.822696 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$Rj = b\,[\mathrm{Ln}\,(Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 9.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 2.50

When the adjusted quarterly value of production is equal to or greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 22.11425 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, $29.178436 million). The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(c) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the following blocks must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent:

Figure 1
Form of the Sliding Royalty Schedule

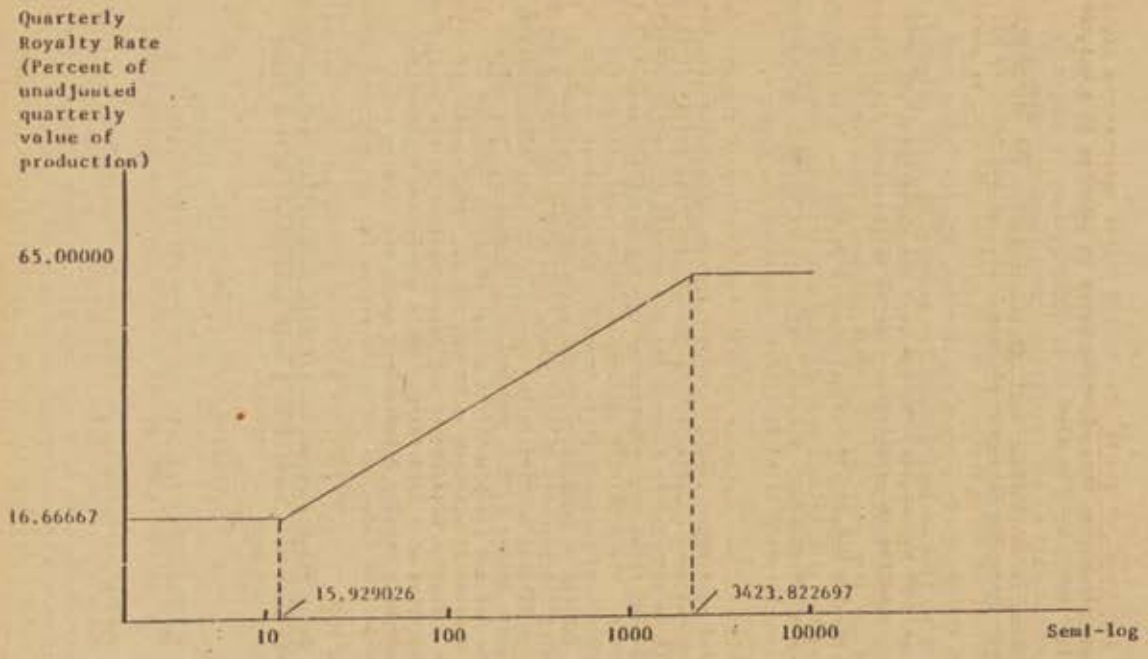

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflaction Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.66667
30.000000	200.0	4/3	22.500000	19.77502	5.93251
90.000000	200.0	4/3	67.500000	29.66253	26.69628
270.000000	200.0	4/3	202.500000	39.55004	106.78511
810.000000	200.0	4/3	607.500000	49.43755	400.44416
10.000000	250.0	5/3	6.000000	16.66667	1.66667
30.000000	250.0	5/3	18.000000	17.76673	5.33002
90.000000	250.0	5/3	54.000000	27.65424	24.88882
270.000000	250.0	5/3	162.000000	37.54175	101.36272
810.000000	250.0	5/3	486.000000	47.42926	384.17701

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

Official Protraction Diagram No. NJ 18-3.

237-245	281-289	325-333	369-377	412-421
454-465	497-512	541-557	585-597	600-602
630-641	644-645	673-688	716-725	727-731
760-769	771-775	804-814	816	847-857
891-902	934-946	978-989		

Official Protraction Diagram No. NJ 18-5.

349	392-393	436-437	479-481	515-525
559-569				

Official Protraction Diagram No. NJ 18-6.

10-19	21	53-62	65	96-102
104-106	138-148	181-191	224-233	235
266-280	309-321	324	353-365	397-406
441-450	485-489	529-533		

Official Protraction Diagram No. NJ 18-8.

36-41	80-84	124-126	168-170	212-213
256	300	344		

Official Protraction Diagram No. NJ 18-9.

1	45

(d) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the remaining blocks to be offered must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline, stated in paragraph 2, above, the certification required by 41 CFR 60-1.7 (b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See paragraph 14, "Information to Lessees."

6. Bid Opening. Bids will be opened at the Bid Opening Time, stated in paragraph 2, above. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, on the day specified in Bid Opening Time, stated in paragraph 2, above, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this offering prior to issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted and no lease for any block or bidding unit will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $371 or more per hectare or fraction thereof. Any bid submitted which does not conform to the requirements of this notice, the OCS Lands Act, as amended, or applicable regulations, may be returned to the person submitting that bid by the Regional Manager and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's rental, and satisfy the bonding requirements of 30 CFR Part 256 Subpart I within the time provided in 30 CFR 256.47. A modification of the payments procedure for successful bidders appears in the revision of regulations discussed in paragraph 1, above. These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Official Protraction Diagrams. Blocks offered for lease may be located on the following official protraction diagrams which may be purchased for $2.00 each from the Regional Manager, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180 or from the Regional Manager, Atlantic OCS Region, Minerals Management Service, Jacob K. Javits Federal Building, Suite 32-120, 26 Federal Plaza, New York, New York 10278.

(a) Outer Continental Shelf Official Protraction Diagram No. NK 18-12, New York (Approved October 31, 1974).

(b) Outer Continental Shelf Official Protraction Diagram

No. NK 19-10, Block Island Shelf (Approved June 22, 1977).

(c) Outer Continental Shelf Official Protraction Diagram No. NJ 18-3 (Approved October 31, 1974).

(d) Outer Continental Shelf Official Protraction Diagram No. NJ 19-1, Block Canyon (Approved June 22, 1977).

(e) Outer Continental Shelf Official Protraction Diagram No. NJ 19-2, Veatch Canyon (Approved January 25, 1979).

(f) Outer Continental Shelf Official Protraction Diagram No. NJ 18-5, Salisbury (Approved October 31, 1974).

(g) Outer Continental Shelf Official Protraction Diagram No. NJ 18-6 (Approved October 31, 1974).

(h) Outer Continental Shelf Official Protraction Diagram No. NJ 19-4 (Approved October 31, 1974).

(i) Outer Continental Shelf Official Protraction Diagram No. NJ 19-5 (Approved June 2, 1980).

(j) Outer Continental Shelf Official Protraction Diagram No. NJ 18-8, Chincoteague (Approved December 2, 1976).

(k) Outer Continental Shelf Official Protraction Diagram No. NJ 18-9, Baltipore Rise (Approved December 6, 1976).

(l) Outer Continental Shelf Official Protraction Diagram No. NJ 18-11, Currituck Sound (Approved April 25, 1978).

(m) Outer Continental Shelf Official Protraction Diagram No. NJ 18-12 (Approved April 18, 1979).

12. Block Descriptions. Note: All blocks contain 2304 hectares unless otherwise indicated on the lists which appear as items (b) and (c) of this section. A listing of currently leased blocks appears at item (d) of this section.

(a) All unleased blocks within the following list are offered for bid:

Official Protraction Diagram No. NK 18-12, New York.

701-702	744-746	787-790	829-834
872-878	915-922	958-966	1001-1010

Official Protraction Diagram No. NJ 18-6 (Approved October 31, 1974).

10-36	266-300	493-520	705-740	884-916
53-62	309-321	529-534	749	925-960
64-80	324-344	537-564	752-784	969-1004
96-124	353-365	573-578	793	
138-168	368-388	581-608	795-828	
181-192	397-432	617-623	837	
195-212	441-476	626-652	839-872	
224-256	485-490	661-696	881	

Official Protraction Diagram No. NJ 19-4 (Approved October 31, 1974).

9-44	229-259	449-470	669-682
53-88	273-301	493-513	716-724
97-132	317-343	537-555	761-766
141-174	361-386	581-597	
185-217	405-428	625-639	

Official Protraction Diagram No. NJ 19-5 (Approved June 2, 1980).

1-2
45-46

Official Protraction Diagram No. NJ 18-8, Chincoteague (Approved December 2, 1976).

36-41	300-305	564-569	808-833	982-996
80-85	344-349	608-613	852-877	998-1009
124-129	388-393	652-657	894-906	
168-173	432-437	696-701	910-921	
212-217	476-481	740-745	938-950	
256-261	520-525	784-789	954-965	

Official Protraction Diagram No. NJ 18-9, Baltimore Rise (Approved December 6, 1976).

1-36	265-301	529-565	793-829	
45-80	309-345	573-609	837-873	
89-125	353-389	617-653	881-917	
133-169	397-433	661-697	925-961	
177-213	441-477	705-741	969-1005	
221-257	485-521	749-785		

Official Protraction Diagram No. NJ 18-11, Currituck Sound (Approved June 25, 1978).

14-41	145-173	277-305	409-437
58-85	189-217	321-349	453-481
101-129	233-261	365-393	497-525

Official Protraction Diagram No. NJ 18-12 (Approved April 18, 1979).

1-14	133-144	265-274	397-404
45-57	177-187	309-317	441-447
89-100	221-230	353-361	485-491

(b) All partial blocks within the following list are offered for bid:

Partial Block List

Official Protraction Diagram No. NJ 18-3 (Approved October 31, 1974).

Block	Hectares	Block	Hectares	Block	Hectares
167	1191.12	387	1576.64	563	1883.79
211	1268.36	431	1653.53	607	1960.41
255	1345.54	475	1730.36	651	2036.95
299	1422.64	519	1807.11	695	2113.42
343	1499.67			739	2189.82

Official Protraction Diagram No. NJ 19-1, Block Canyon (Approved June 22, 1977).

Block	Hectares	Block	Hectares	Block	Hectares
142	1191.12	362	1576.64	538	1883.79
186	1268.36	406	1653.53	582	1960.41
230	1345.54	450	1730.36	626	2036.95
274	1422.64	494	1807.11	670	2113.42
318	1499.67			714	2189.82

Official Protraction Diagram No. NJ 18-6 (Approved October 31, 1974).

Block	Hectares	Block	Hectares	Block	Hectares
476	1173.80	652	1473.87	828	1772.79
520	1248.93	696	1548.71	872	1847.34
564	1323.98	740	1623.47	916	1921.82
608	1398.96	784	1698.17	960	1996.23
				1004	2070.57

Official Protraction Diagram No. NJ 19-4 (Approved October 31, 1974).

Block	Hectares	Block	Hectares	Block	Hectares
449	1173.80	537	1323.98	625	1473.87
493	1248.93	581	1398.96	669	1548.71

Official Protraction Diagram No. NJ 18-9, Baltimore Rise (Approved December 6, 1976).

Block	Hectares	Block	Hectares	Block	Hectares
36	2144.83	829	1165.26	917	1310.97
80	2219.02	873	1238.15	961	1383.71
				1005	1456.39

(c) The following blocks must be bid on together, as bidding units:

OFFICIAL PROTRACTION DIAGRAM	BLOCK	BLOCK HECTARES	BIDDING UNIT HECTARES
NK 18-12	702	336.81	
	746	414.83	
NK 19-10	669	336.81	
	713	414.83	1503.28
NK 18-12	790	492.77	
	834	570.64	
NK 19-10	757	492.77	
	801	570.64	2126.82
NK 18-12	878	648.45	
NK 19-10	845	648.45	1296.90
NK 18-12	922	726.18	
NK 19-10	889	726.18	1452.36
NK 18-12	966	803.84	
NK 19-10	933	803.84	1607.68
NK 18-12	1010	881.44	
NK 19-10	977	881.44	1762.88
NJ 18-3	35	958.96	
NJ 19-1	10	958.96	1917.92
NJ 18-3	79	1036.42	
NJ 19-1	54	1036.42	2072.84
NJ 18-3	123	1113.80	
NJ 19-1	98	1113.80	2227.60
NJ 18-3	783	2266.15	
	784	0.0005	2266.1505
NJ 18-3	828	38.41	
	872	114.60	
	916	190.72	
	960	266.76	
NJ 18-3	1004	342.74	
NJ 19-1	801	38.41	
	845	114.60	
	889	190.72	
	933	266.76	
	977	342.74	1906.46
NJ 19-1	757	0.0005	
	758	2266.15	2266.1505
NJ 18-6	36	418.65	
	80	494.48	
NJ 19-4	9	418.65	
	53	494.48	1826.26
NJ 18-6	124	570.25	
NJ 19-4	97	570.25	1140.50
NJ 18-6	168	645.94	
NJ 19-4	141	645.94	1291.88
NJ 18-6	212	721.56	
NJ 19-4	185	721.56	1443.12
NJ 18-6	256	797.11	
NJ 19-4	229	797.11	1594.22
NJ 18-6	300	872.59	
NJ 19-4	273	872.59	1745.18
NJ 18-6	344	948.00	
NJ 19-4	317	948.00	1896.00
NJ 18-6	388	1023.34	
NJ 19-4	361	1023.34	2046.68
NJ 18-6	432	1098.61	
NJ 19-4	405	1098.61	2197.22

OFFICIAL PROTRACTION DIAGRAM	BLOCK	BLOCK HECTARES	BIDDING UNIT HECTARES
NJ 18-9	124	2288.52	
	125	4.63	2293.15
NJ 18-9	169	63.19	
	213	137.17	
	257	211.07	
	301	284.91	
	345	358.67	
	389	432.36	1487.37
NJ 18-9	433	505.97	
	477	579.52	
	521	652.99	1738.48
NJ 18-9	565	726.39	
	609	799.71	1526.10
NJ 18-9	653	872.97	
	697	946.15	1819.12
NJ 18-9	741	1019.26	
	785	1092.29	2111.55

(d) No bid will be considered for the following blocks. Any bid submitted on the following blocks will be returned unopened to the bidder.

Leased Block List

Official Protraction Diagram No. NJ 18-3 (Approved October 31, 1974).

163	598	693	737
164	599	694	770
206	642	726	780
207	643	736	953
208			

Official Protraction Diagram No. NJ 18-6 (Approved October 31, 1974).

20	371	581	801
64	372	582	802
103	413	585	839
107	414	586	840
112	415	587	843
149	451	623	844
150	457	628	845
151	458	630	885
192	493	671	886
199	494	672	887
234	495	673	888
243	500	715	889
284	501	716	928
285	537	753	929
326	538	754	931
327	539	757	932
328	541	758	972
329	542	795	973
369	543	796	974
370	544	797	

Official Protraction Diagram No. NJ 18-8, Chincoteague. (Approved. December 2, 1976).

85			
347			

Official Protraction Diagram No. NJ 18-9, Baltimore Rise. (Approved. December 6, 1976).

4	48	92	134
5	49	93	177
6			

13. Lease Terms and Stipulations.

(a) Leases resulting from this offering for the following blocks will be for an initial term of 5 years:

Official Protraction Diagram No. NK 18-12, New York.

All Blocks

Official Protraction Diagram No. NK 19-10, Block Island Shelf.

All Blocks

Official Protraction Diagram No. NJ 18-3.

17-35	61-79	105-123	149-167	193-211
237-255	281-289	293-299	325-333	337-343
369-378	381-387	412-422	428-431	454-466
473-475	497-512	517-519	541-557	562-563
585-604	630-649	673-693	716-736	760-779
804-814	816-821	847-857	860-863	891-904
934-947	978-991			

Official Protraction Diagram No. NJ 19-1, Block Canyon.

10-27	54-71	98-115	142-153	186-193
230-235	274-279	318-321	362-364	406-408

Official Protraction Diagram No. NJ 18-5, Salisbury.

All Blocks

Official Protraction Diagram No. NJ 18-6.

10-21	53-62	64-65	96-108	138-151
181-192	224-238	266-281	309-321	324
353-365	397-410	441-454	485-490	493-497
529-534	537-540	573-578	581-583	617-623
626	661-668	705-711	749	752-754
793	795-798	837	839-841	881
884	925-927	969-970		

Official Protraction Diagram No. NJ 18-8, Chincoteague.

36-41	80-85	124-129	168-173	212-215
217	256-259	300-302	344-346	388-389
432	476	520	764-780	808-824
852-867	894-906	910-911	938-950	954-955
982-996	998-999			

Official Protraction Diagram No. NJ 18-9, Baltimore Rise.

1-2	45	89

Official Protraction Diagram No. NJ 18-11, Currituck Sound.

14-30	58-74	101-118	145-161	189-205
233-249	277-293	321-337	365-381	409-424
453-468	497-512			

All other leases issued as a result of this offering will be for an initial term of 10 years. Leases issued as a result of this offering will be on Form MMS-2005 (August, 1982), available from the Regional Manager, at the address stated in paragraph 2.

(b) For leases resulting from this offering for blocks offered on a cash bonus basis with a fixed sliding scale royalty, listed in paragraph 4(b), Form MMS-2005 will be amended as follows:

Section 6. Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows: When the quarterly value of production, adjusted for inflation, is less than or equal to $15.929025 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $15.929026 million, but less than or equal to $3423.822696 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b\,[\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 9.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 2.50

When the adjusted quarterly value of production is equal to or greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 22.11425 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, 29.178436 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(c) For leases resulting from this offering for blocks offered on a cash bonus basis with a fixed net profit share, as listed in paragraph 4(a), Form MMS-2005 will be amended as follows:

Section 4. Rentals. The phrase, "which commences prior to a discovery in paying quantities of oil or gas on the leased area," is hereby deleted and replaced by, "which commences prior to the date the first net profit share payment becomes due."

Section 5. Minimum Royalty. Hereby deleted.

Section 6. Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of 30 percent with a 1.50 capital recovery factor, calculated pursuant to 30 CFR 261.

(d) Except as otherwise noted, the following stipulations will be included in each lease resulting from this offering. In the following stipulations, the term RS refers to the Regional Supervisor, Offshore Field Operations, Atlantic OCS Region, Minerals Management Service.

Stipulation No. 1

If the Regional Manager has reason to believe that a site, structure, or object of historical or archeological significance, hereinafter referred to as "cultural resource," may exist in the leased area and gives the lessee written notice that the lessor is enforcing the provisions of this stipulation, the lessee shall, upon receipt of such notice, comply with the following requirements:

(1) Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys and/or prepare a report, as specified by the Regional Manager, to determine the potential existence of any cultural resource that may be affected by such operation. All data produced as well as other pertinent natural and cultural environmental data shall be examined by an archeologist and geophysicist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of such surveys and assessments prepared by an archeologist and geophysicist shall be submitted by the lessee to the Regional Manager.

(2) If such cultural resource indicators are present, the lessee shall: (a) locate the site of the lease operation so as not to affect adversely the identified location or (b) establish to the satisfaction of the Regional Manager, on the basis of further archeological investigation conducted by an archeologist and geophysicist using such survey equipment and techniques as deemed necessary by the Regional Manager, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

(3) A report of the latter investigation prepared by the archeologist and geophysicist shall be submitted to the Regional Manager for review. Should the Regional Manager determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Regional Manager has given directions as to its protection.

In addition, the lessee agrees that if any cultural resource should be discovered during the conduct of any operation on the leased area, he shall report immediately such findings to the Regional Manager and make every reasonable effort to protect the cultural resource until the Regional Manager gives directions as to its protection.

Stipulation No. 2

(a) To be included only in leases resulting from this offering for the following blocks:

Official Protraction Diagram No. NK 19-10.

900-902	944	988

Official Protraction Diagram No. NJ 19-1.

14-16	22-24	58-60	66-68	102-104
111-112	146-149	155-156	190-193	199
231-232	235-237	275-281	319-324	364-366
409-410	453			

Official Protraction Diagram No. NJ 18-3.

473	516-517	560	604	771
775-776	814	816-820	860	901-909
944-951	988-993			

Official Protraction Diagram No. NJ 18-6.

19	21-24	65-67	106	108-109
195	238-239	278	321	324
365	368	410-411	448-449	626
667-670	706-707	841	884	927

Official Protraction Diagram No. NJ 18-8.

608	652	696	781-782	863-864
906	910-912	950	954-956	998-1000

Available environmental information indicates that biological populations or habitats which require special protection may exist on these blocks. The lessee is required to conduct environmental surveys or studies, which may include field sampling or monitoring, as approved by the RS, to determine existing environmental conditions, the extent and composition of the populations or habitats, and the effects of proposed or existing operations

on those populations or habitats which require additional protective measures. Special biological resources include, but are not limited to: (1) very unusual, rare, or uncommon ecosystems; (2) a species of limited regional distribution that may be adversely affected by any lease operation. The nature and extent of surveys or studies will be determined by the RS on a case-by-case basis.

If the RS determines, based on available environmental information, including surveys or studies required of the lessee, that biological populations or habitats requiring special protection do exist in proximity to a proposed drill site, the lessee will be required to undertake protective measures that may include, but are not limited to: (1) relocating the site of operations so as not to adversely affect the biological populations or habitats identified; or (2) modifying operations, such as the disposal of drilling muds and cuttings in such a way so as not to adversely affect the biological populations or habitats; or (3) establishing to the satisfaction of the RS that such operations will not adversely affect the biological populations or habitats identified. The lessee shall submit all data obtained in the course of surveys or monitoring programs to the RS, with the locational information for drilling or other activity.

Operations, including siting, must be conducted to insure the protection and continued viability of the populations or habitats deserving protection in a manner consistent with the other purposes of the Outer Continental Shelf Lands Act, as amended. The lessee may take no action that might result in any adverse effect on the biological populations or habitats identified until the RS provides written directions to the lessee with regard to permissible actions.

In the event that populations or habitats deserving protection are identified subsequent to commencement of or during operations, the lessee shall make every reasonable effort to preserve and protect all such biological populations and habitats within the leased area from damage until the RS provides written instructions to the lessee with regard to the biological populations or habitats identified.

(b) To be included only in leases resulting from this offering for the following blocks:

Official Protraction Diagram No.NK 19-10:

686-687	727	731	771	775
814-819	857-863	903-907	943	947
979-987				

Official Protraction Diagram No. NJ 19-1:

11-13	17-21	54-57	61-65	98-101
105-110	142-145	154	186-189	198
230	233	234	318	

Official Protraction Diagram No. NJ 18-3:

79	122-123	149-150	165-167	193-194
206	209-211	244-245	248-255	293-299
337-343	378	381-386	422	428-429
466	509-512	552-557	595-597	600-602
639-641	644-646	682-689	727-732	772-774
813	857	900		

Official Protraction Diagram No. NJ 18-6:

62	148	191	235-237	279-281
364	407-409	450	452-453	496
577-578	621-622	664	666	708-711
752	754	793	798	837
881	925-926	969-970		

Official Protraction Diagram No. NJ 18-5:

877	920-921	963-965	1007-1009

Official Protraction Diagram No. NJ 18-8:

38-41	81-84	125-129	168-171	212-215
256-258	300-302	344-345	388-389	432
778-780	822-824	866-868		

Official Protraction Diagram No. NJ 18-9:

1

Official Protraction Diagram No. NJ 18-11:

29-30	73	117	161	204-205
248-249	292-293	336-337	380	409
419-421	423-424	453	463-465	467-468
497	507-509	511-512		

If available environmental information indicates that biological populations or habitats which require special protection may exist in proximity to a proposed drill site, the RS may require the lessee to conduct environmental surveys or studies, which may include field sampling or monitoring, as approved by the RS, to determine existing environmental conditions, the extent and composition of the populations or habitats, and the effects of proposed or existing operations on those populations or habitats which might require additional protective measures. Special biological resources include, but are not limited to: (1) very unusual, rare, or uncommon ecosystems; (2) a species of limited regional distribution that may be adversely affected by any lease operation. The RS shall provide written notice to the lessee of his decision to require such surveys. The nature and extent of any surveys or studies will be determined by the RS on a case-by-case basis.

If the RS determines, based on available environmental information, including any surveys or studies which the RS may require of the lessee, that biological populations or habitats requiring special protection do exist in proximity to a proposed drill site, the lessee will be required to undertake protective measures that may include, but are not limited to: (1) relocating the site of operations so as not to adversely affect the biological populations or habitats identified; or (2) modifying operations, such as the disposal of drilling muds and cuttings, in such a way so as not to adversely affect the biological populations or habitats; or (3) establishing to the satisfaction of the RS that such operations will not adversely affect the biological populations or habitats identified. The lessee shall submit all data obtained in the course of surveys or monitoring programs to the RS, with the locational information for drilling or other activity.

Operations, including siting, must be conducted to insure the protection and continued viability of the populations or habitats deserving protection in a manner consistent with the other purposes of the Outer Continental Shelf Lands Act, as amended. The lessee may take no action that might result in any adverse effect on the biological populations or habitats identified until the RS provides written directions to the lessee with regard to permissible actions.

In the event that populations or habitats deserving protection are identified subsequent to commencement of or during operations, the lessee shall make every reasonable effort to preserve and protect all such biological populations and habitats within the leased area from damage until the RS provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 3.

Pipelines will be required, (1) if pipeline rights-of-way can be determined and obtained, (2) if laying such pipelines is technologically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, laying of pipelines is economically feasible, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced mutliple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the Regional Technical Working Group (RTWG) or other similar advisory group, with the participation of Federal and State governments, industry, and private interests. Where feasible and environmentally preferable, all pipelines, including both flow lines and gathering lines for oil and gas, shall be shrouded or buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other factors as determined on a case-by-case basis.

All valves, taps or other irregular surfaces that might be vulnerable or might damage fishing gear will be covered with an approved protective dome which will allow commercial trawling gear to pass over the structure without snagging or damaging the structure or fishing gear, as determined on a case-by-case basis.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the RS. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all applicable sections of Titles 33 and 46 of the U.S. Code and the regulations issued thereunder by the U.S. Coast Guard.

Subsea wellheads and temporary abandonments, or suspended operations that leave protrusions above the seafloor, shall be protected, if feasible and as appropriate, in such a manner as to allow commercial fisheries trawling gear to pass over the structure without snagging or otherwise damaging the structures or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the RS. The coordinates of such structures will be determined by the lessee utilizing state of the art navigation systems with accuracy of at least ±50 feet (15.25 m) at 200 miles (322 km).

Stipulation No. 4

The RS may require the lessee to dispose of drill cuttings and drilling muds by shunting the material to a depth and location below the ocean surface as specified by the RS, or by transporting the material to disposal sites approved by the Environmental Protection Agency. After consultation with the Environmental Protection Agency, the RS shall determine the method of disposal based upon review of relevant sources of information.

Based upon the composition of produced formation waters, the site-specific environmental conditions in a leasing area, and the data from relevant sources, the RS may require the lessee to reinject formation waters. The RS shall provide written notice to the lessee of a decision to require reinjection of such formation waters.

Stipulation No. 5

To be included only in leases resulting from this offering for the following blocks:

Official Protraction Diagram No. NK 18-12, New York.

701-702	744-746	787-790	829-834	872-878
915-922	958-966	1001-1010		

Official Protraction Diagram No. NK 19-10, Block Island Shelf.

242-247	285-291	327-335	370-379	413-423
456-467	499-511	541-555	584-599	627-643
669-687	713-731	757-775	801-819	845-863
889-907	933-944	947-951	977-988	991-995

Official Protraction Diagram No. NJ 18-3.

19-35	64-79	109-123	154-162	165-167
199-205	209-211	245-255	293-299	337-343
381-387	412-413	428-431	454-458	473-475
497-503	516-519	541-548	561-563	585-592
605-607	630-637	649-651	673-682	695
716-725	727	738-739	760-769	771-772
781-784	804-814	816-817	825-828	847-857
860-862	869-872	891-907	913-916	934-952
957-960	978-997	1001-1004		

Official Protraction Diagram No. NJ 19-1, Block Canyon.

10-27	54-71	98-115	142-159	186-203
230-247	274-291	318-335	362-379	406-423
450-467	494-511	538-555	582-599	626-643
670-687	714-731	757-775	801-819	845-863
889-907	933-951	977-1012		

Official Protraction Diagram No. NJ 19-2, Veatch Canyon.

969-974

Official Protraction Diagram No. NJ 18-5, Salisbury.

392-393	436-437	479-481	515-525	559-569
603-613	647-657	691-701	735-745	779-789
823-833	867-877	911-921	955-965	999-1009

Official Protraction Diagram No. NJ 18-6.

10-19	21-30	33-36	53-62	65-75
77-80	96-102	104-106	108-111	113-119
121-124	138-148	152-162	165-168	181-191
195-198	200-205	209-212	226-233	235-242
244-249	253-256	272-283	286-292	297-300
319-321	324-325	330-335	341-344	365
368	373-379	385-388	397	411-412
416-422	429-432	441-443	459-465	485-488
504-509	529-533	550-552	573-578	617-622
661-668	705-713	749	752	755-756
759	793	798-800	803-804	837
841-842	846-849	881	884	890-894
925-927	930	933-940	969-971	975-985

Official Protraction Diagram No. NJ 19-4.

9-44	53-88	97-132	141-174	185-217
229-259	273-301	317-343	361-386	405-428

Official Protraction Diagram No. NJ 19-5.

1-2 45-46

Official Protraction Diagram No. NJ 18-8, Chincoteague.

36-41	80-84	124-129	168-173	212-217
256-261	300-305	344-346	348-349	388-393
432-437	476-481	520-525	564-569	608-613
652-657	696-701	740-745	764-789	808-833
852-877	894-906	910-921	938-950	954-965
982-996	998-1009			

Official Protraction Diagram No. NJ 18-9, Baltimore Rise.

1-3	7-18	45-47	50-63	89-91
94-108	133	135-153	178-188	221-244
265-289	309-333	353-377	397-421	441-465
485-509	529-543	573-597	617-641	661-685
705-729	749-773	793-817	837-861	881-905
925-949	969-993			

Official Protraction Diagram No. NJ 18-11, Currituck Sound.

14-41	58-85	101-129	145-173	189-217
233-261	277-305	321-349	365-393	409-437
453-481	497-525			

Official Protraction Diagram No. NJ 18-12.

1-14	45-57	89-100	133-144	177-187
221-230	265-274	309-317	353-361	397-404
441-447	485-491			

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any person or persons, or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the Commanding Officer, Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station Oceana, Virginia Beach, Virginia. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military

installation, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat or aircraft traffic into the individual designated warning areas, shall enter into an agreement with the Commanding Officer, Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station Oceana, Virginia Beach, Virginia, on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

(c) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commanding Officer, Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station Oceana, Virginia Beach, Virginia, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities conducted within individual, designated warning areas. Necessary monitoring, control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area: provided, however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Stipulation No. 6

To be included only in leases resulting from this offering for all blocks offered within Official Protraction Diagram Nos. NJ 18-5, NJ 18-6, NJ 18-8, NJ 18-9, NJ 18-11, NJ 18-12, NJ 19-4, and NJ 19-5.

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by or on behalf of the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the National Aeronautics and Space Administration (NASA), Wallops Flight Center. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the NASA Wallops Flight Center, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, shall enter into an agreement with the Director, Wallops Flight Center, prior to commencing such traffic. Such agreement shall provide for positive control of boats, ships, and aircraft operating in the above designated areas and will provide for the avoidance of interference with the programs and activities of the NASA Wallops Flight Center.

(c) Upon recommendation by the Director, Wallops Flight Center, when the activities of the NASA Wallops Flight Center may endanger personnel or property, the lessee agrees, upon receipt of notice from the RS, to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within forty eight (48) hours or within such longer period as may be specified by the RS. The RS shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than seventy-two (72) hours; however, such period of time may be extended by subsequent notice from the RS. Equipment and structures may remain in place on the lease during such time as the evacuation remains in effect.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, in accordance with the requirements specified by the Director, Wallops Flight Center, to the degree necessary to prevent damage to, or unacceptable interference with, the programs and activities of the NASA Wallops Flight Center.

Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Director, Wallops Flight Center, provided, however, that control of such electromagnetic communication shall in no instance prohibit all manner of electromagnetic communications during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Stipulation No. 7

This stipulation will apply to the following blocks which have been identified as having potential for containing undetonated explosives:

Official Protraction Diagram No. NJ 19-1.

291 334 335 378 379
423

Official Protraction Diagram No. NJ 18-6.

27-30 71-77 115-121 159-165 206-209
845-849 889-893 933-937 977-981

Official Protraction Diagram No. NJ 19-9.

9-13

Official Protraction Diagram No. NJ 18-8.

607-610 651-654 695-698 739-742 779-784
823-828 867-872 911-915

Official Protraction Diagram No. NJ 18-11.

431-433 474-478 518-522

This stipulation will apply to the following blocks which have been identified as having potential for containing radioactive materials:

Official Protraction Diagram No. NJ 18-8.

996-1009

Official Protraction Diagram No. NJ 18-9.

969-970

Official Protraction Diagram No. NJ 18-11.

28-41 72-85 120-129 164-173

Official Protraction Diagram No. NJ 18-12.

1-2 45-46 89-90 133-134

This stipulation will apply to the following blocks which have been identified as having potential for containing both undetonated explosives and radioactive materials:

Official Protraction Diagram No. NJ 18-6.

385-388 428-432 472-476 516-520 561-563

If the RS believes any undetonated explosives or radioactive materials may exist in the lease area, the lessee shall conduct surveys as specified by the RS to determine the location of any such materials. Upon completion of such surveys, the lessee shall forward a report and all pertinent data to the RS for review. Should the RS determine that the existence of undetonated explosives or radioactive materials may adversely affect any activity or operation, such as the construction or placement of any structure for exploration or development on the lease, or pose an environmental hazard such as the release of radioactive materials from drums or canisters, the lessee shall take no action until the RS has given directions as to the conduct of that operation.

Stipulation No. 8.

No structures or drilling rigs will be allowed west of 74° 15' west longitude within the following blocks: Official Protraction Diagram No. NJ 18-8; 36, 80, 124, 168, 212, 256, 300, 344, 388, 432, 476, 520, 564, 608, 652, 696, and 740.

Stipulation No. 9.

(To be included only in the leases resulting from this offering for the fixed sliding scale royalty blocks identified in paragraph 4(b) of this notice.)

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Minerals Management Service, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been underway for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in section 15(d) of this lease; the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease area.

Stipulation No. 10.

(To be included only in the leases resulting from this offering under the net profit share bidding system identified in paragraph 4(a) of this notice).

The net profit share payment specified in section 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more that 16-2/3 percent of the production from the lease area may be taken as a net profit share payment in amount, except as provided in section 15(d) of this lesse; additional net profit share payments shall be calculated to include the value of such production in excess of 16-2/3 percent.

14. Information to Lessees.

(a) In the enforcement of the Biological Resources Stipulation (Stipulation No. 2), the BS will receive recommendations from a Biological Task Force (BTF) composed of designated representatives of the Minerals Management Service, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Environmental Protection Agency. The BTF will consult with the affected States. The BS will consult with the BTF on the conduct of biological surveys by lessees, the appropriate course of action after surveys have been conducted, and on the administration of the biological/environmental aspects of the above-mentioned stipulation.

(b) Revisions of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this offering, section 18 of the lease form, MMS-2005 (August 1982), would be deleted from leases resulting from this offering. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5 (a) (1) and 60-1.7 (a) (1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(c) Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4 (e) of the Outer Continental Shelf Lands Act of 1953, as amended.

(d) For blocks within the 106-mile industrial wastes dumpsite plus a two-block buffer zone, at least thirty (30) days prior to moving a rig on-site the lessee must notify the Chief, Marine and Wetlands Protection Branch, U.S. Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, N.Y. 10278, in writing, stating on what date a rig is to be moved on-site. This would apply for the following blocks:

Official Protraction Diagram No. NJ 18-3.

949-960	993-1004			

Official Protraction Diagram No. NJ 18-6.

25-36	69-80	113-124	157-168	201-212
245-256	289-300	333-344	377-388	

Official Protraction Diagram No. NJ 19-1

934-935	977-979			

Official Protraction Diagram No. NJ 19-4.

9-11	53-55	97-99	141-143	185-187
229-231	273-275	317-319	361-363	

(e) For blocks within the proposed North Atlantic Incineration site, at least thirty (30) days prior to moving a rig on-site the lessee must notify the Chief, Marine and Wetlands Protection Branch, U.S. Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, N.Y. 10278, in writing, stating on what date a rig is to be moved on-site. This would apply for the following blocks:

Official Protraction Diagram No. NJ 18-6.

291-300	335-344	379-388	423-432	467-476
511-520	555-564	599-608	643-652	687-696
731-740	775-784	819-828	863-872	907-916
951-952	995-1000			

Official Protraction Diagram No. NJ 19-4.

273-276	317-320	361-364	405-408	449-452
493-496	537-540	581-584	625-628	669-672
716				

In the event that an alternate location within the area proposed for offering is selected as the final North Atlantic Incineration Site, lessees of those blocks will be subject to the same provision specified above.

(f) Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(g) Bidders are advised that in accordance with Section 16 of each lease offered at this offering, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate, a royalty rate based on a sliding scale, or a net profit share payment.

(h) The following list of blocks were previously offered but were not leased:

Mass Movement

Official Protraction Diagram No. NJ 18-3.

733	NW¼SW¼,S½SE¼,NE¼SE¼	734	W½SW¼
735	SW¼	777	N½NE¼
778	NW¼,W½NE¼,SE¼NE¼	779	SW¼NW¼,N½SW¼,SE¼NE¼,N½SE¼,SE¼SE¼
781	SE¼,E½SW¼,SW¼SW¼,S½NE¼,SE¼NW¼	821	SE¼NW¼,NE¼SW¼,SE¼NE¼,N½SE¼
822	NE¼SW¼,SE¼NW¼,NE¼,N½SE¼	823	S½NW¼,NE¼NW¼,N½SW¼,NE¼,SW¼SE¼
824	SE¼,SW¼,S½NE¼,S½NW¼	865	NW¼NE¼,SE¼NE¼,NE¼SE¼
866	W½NW¼,SE¼NW¼,SW¼,W½SE¼	867	SE¼NW¼,NE¼SW¼,S½NE¼,N½SE¼
908	NW¼	909	E½NE¼
910	W½NW¼,NE¼NW¼,NE¼,SE¼,SE¼SW¼	911	S½,S½NW¼,NW¼NW¼,S½NE¼,NE¼NE¼
954	NW¼SW¼,NE¼NW¼,N½NE¼,SE¼NE¼	990	SW¼SW¼,N½SW¼
993	NE¼SE¼	994	SW¼,W½SE¼

Official Protraction Diagram No. NJ 18-6.

22	E½NE¼	23	S½NW¼,NW¼NW¼,N½SW¼,W½SE¼
26	N½NE¼,SE¼NE¼	28	SE¼SE¼
108	SW¼NE¼,NW¼SE¼	113	SE¼SE¼
114	SW¼SW¼	157	NE¼NE¼
453	SE¼	454	S½NW¼
496	NE¼SE¼	497	NW¼,NW¼NE¼,NW¼SW¼
546	S½SW¼,NE¼SW¼	627	N½NW¼
800	SW¼SE¼	975	SW¼SW¼

Official Protraction Diagram No. NJ 18-8.

304	SE¼SE¼	305	SW¼SW¼
348	E½NE¼,E½SE¼		

Official Protraction Diagram No. NJ 18-9.

50	N½NE¼	90	SE¼SW¼
133	E½NE¼,NE¼SE¼		

Shallow Faults

Official Protraction Diagram No. NJ 18-3.

864	SE¼NE¼	865	NW¼NW¼
909	S½SE¼	910	S½NE¼,W½NW¼,NW¼SE¼
911	NE¼NE¼,S½NE¼,SW¼SW¼,E½SW¼, NW¼SE¼	952	NE¼SE¼
954	NE¼NE¼	995	SE¼SE¼

Official Protraction Diagram No. NJ 18-6.

197	N½SE¼,SW¼SE¼	330	N½SW¼,SW¼SW¼
373	NE¼NE¼	846	N½NW¼,SW¼NW¼,NE¼SW¼,NW¼SE¼

When previously offered, these blocks were assigned a geologic hazards stipulation due to possible mass movement of sediments or shallow faulting.

In this offering, lessees are informed that these blocks will not be assigned a geologic hazards stipulation, but the lessees are alerted to the possibility that mass movement of sediments could occur and shallow faults are present on the blocks listed. The lessees are also informed that this list may not be all-inclusive as other blocks in the offering may contain these same geohazards.

(i) Lessees are also informed that seismic reflection data indicate that clathrates (solid gas hydrates) may exist in upper sedimentary layers of the continental slope and rise in the offering area in water depths exceeding 2,000 meters. Special drilling procedures may be required in these areas.

(j) For those blocks noted in paragraph 13 providing for leases with an initial period of more than five years, bidders are advised that pursuant to 30 CFR 250.34-1(a) (3), the lessee shall submit to the Minerals Management Service either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

(k) Subject to Interior Department consultation with the U.S. Coast Guard, it may be required that in the immediate vicinity of drilling operations equipment adequate and appropriate for open sea oilspill containment and cleanup be maintained. In addition, a suitable deployment vessel and personnel trained in deployment and use of this equipment should be immediately available. As part of the approval of development and production plans, suitable pollution prevention equipment may be required in the immediate vicinity of development and production operations.

(l) Lessees are informed that additional National Pollutant Discharge Elimination System effluent limitations or operating conditions may be imposed in areas of biological concern

(m) For the following blocks, the authorized officer will consult with the Department of Defense before any decision is made on placement of rigs or platforms.

Official Protraction Diagram No. NJ 18-11.

101-129	145-173	189-217	233-261	277-305
321-349	365-393	409-437	453-481	497-525

Official Protraction Diagram No. NJ 18-12.

89-100	133-144	177-187	221-230	265-274
309-317	353-361	397-404	441-447	485-491

(n) Because there is a substantial body of information about the location of biological resources in most of the areas identified by the BTF, enforcement of Stipulation No. 2(a) probably will not require preliminary surveys in most blocks, but rather, that the operator demonstrate to the satisfaction of the RS that no harm will occur to the habitat or biota in question. Such a demonstration could be accomplished by, but not necessarily be limited to, a literature review, the presentation of information gained from past or on-going relevant studies or monitoring programs, the application of a modelling effort, the performance of a field monitoring program for areas or situations where sufficient information to demonstrate "no harm" is unavailable, or an objective evaluation of impacts from exploratory drilling with the application of protective measures where and when appropriate.

15. OCS Orders. Operations on all leases resulting from this offering will be conducted in accordance with the provisions of all Mid-Atlantic OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

16. New OCS Bid Adequacy Procedures.

The following system of OCS bid adequacy procedures will be used for the first time for this offering. The system is composed of two phases. Phase 1 includes market-oriented evaluation criteria for accepting some bids on blocks or bidding units and determining what other bids will receive further evaluation in Phase 2 according to the traditional bid adequacy procedures. Phase 2 utilizes an independent Government evaluation and the traditional bid adequacy rules based upon the Mean Range of Values (MROV), Discounted Mean Range of Values (DMROV), and Geometric Average Evaluation of the Tract, i.e., blocks or bidding units (GABOT).

Phase 1

Phase 1 is composed of criteria designed to partition blocks or bidding units receiving bids into three general categories:

* Those receiving bids which MMS has identified as being non-prospective blocks;

* Those where opportunities for strategic underbidding, information asymmetry, collusion, and other noncompetitive practices might most likely occur and where the Government has the most detailed and reliable data; and

* Those where the competitive market forces can be relied upon to assure fair market value.

It has been determined that the following four Phase 1 criteria will be applied:

1. High bids on all blocks or bidding units classified by MMS as being either development or drainage will be referred directly for further evaluation using the traditional criteria.

2. All legal high bids for blocks or bidding units judged by MMS to be not located on a viable prospect will be accepted.

3. After screening for anomalously low bids through application of the "one-eighth rule," 1/ legal high bids will be accepted for prospective wildcat and proven blocks or bidding units receiving three or more bids and more than the average number of bids for prospective blocks or bidding units bid upon in the offering, i.e., whichever is more.

4. After adjusting for anomalously low bids through application of the "one-eighth rule," all legal high bids will be accepted for prospective wildcat and proven blocks or bidding units where the geometric average bonus bid for the block or bidding unit is in the upper 50th percentile for prospective wildcat and proven blocks or bidding units receiving bids.

Phase 1 will be conducted block-by-block or bidding unit-by-bidding unit, and it is expected that Phase 1 should be completed within three days of the Bid Opening.

Phase 2

All prospective wildcat and proven blocks or bidding units which are not accepted as a result of the application of the Phase 1 criteria and all drainage and development blocks or bidding units will receive further evaluation via the traditional bid adequacy procedures currently in effect, i.e., high bids will be compared to the MROV, DMROV, and GABOT. While it is expected that most analyses would be undertaken based upon data available at the time of the offering, additional geological and geophysical analyses, including additional mapping, can be undertaken post-offering at the discretion of the Regional Manager.

The bid adequacy recommendations developed in Phase 2 should be completed within three weeks of the offering.

1/ Anomalously low bids will not be included in the bid number; e.g., if the lowest bid on a block or bidding unit is less than 1/8th of the next lowest bid, the lowest bid will not be included in the number of bids. This rule can exclude no more than one bid for a given block or bidding unit.

Since the inception of the OCS leasing program, the Department has continually sought to improve upon techniques which determine bid adequacy. Much of the best information regarding the fair market value of a block or bidding unit is that which is available through observing the market for leases. The above procedures are designed to make better use of that information.

Director, Minerals Management Service
Harold Doley

Approved:

Under Secretary of the Interior
J.J. Simmons III

MAR 2 2 1983

Date

[FR Doc. 83-7791 Filed 3-24-83; 8:45 am]
BILLING CODE 4310-MR-C

UNITED STATES
DEPARTMENT OF THE INTERIOR
Minerals Management Service
Outer Continental Shelf
Mid-Atlantic

Notice of Leasing Systems, Lease Offering (April 1983)

Section 8(a)(8) (43 U.S.C. 1337 (a)(8)) of the Outer Continental Shelf Lands Act (OCLSA), as amended, requires that, at least 30 days before any lease offering, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and
(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

(A) Bidding systems to be used. In Outer Continental Shelf (OCS) Mid-Atlantic Leasing Offering (April 1983), blocks will be offered under the following four bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337 (a) (1)): (1) bonus bidding with a fixed 16 2/3 percent royalty on 418 blocks, (2) bonus bidding with a fixed net profit share on four blocks, (3) bonus bidding with a fixed sliding scale royalty on 856 blocks, and (4) bonus bidding with a fixed 12 1/2 percent royalty on 2,774 blocks.

(1) Bonus Bidding with a 16 2/3 Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration.

(2) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by section (8)(a)(1)(D) of the OCSLA, as amended. The fixed net profit share system has been used in 11 previous OCS sales. The system used in this lease offering has a profit share rate of 30 percent and firms will be permitted a capital recovery factor of 1.50 over their actual allowable costs before any profit share payments are due. These net profit share parameters are the same as those specified for previously leased blocks using this system in the lease offering area. The blocks offered under this system in this lease offering are adjacent to and may share common structures with previously leased net profit share blocks. Use of this system will assist in the administration and possible unitization of this lease offering's net profit share blocks with adjacent blocks previously leased under this system. The profit share system may promote the more complete development of fields when compared to a royalty system as the Government shares more of the risk and the lessee's incremental costs are lower in the presence of capital recovery.

(3) Bonus Bidding with a Sliding Scale Royalty. This system is authorized by section (8)(a)(1)(C) of the OCSLA, as amended. The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The fixed sliding scale formula provided for the Mid-Atlantic Lease Offering (April 1983) is based on the current assumed range of costs and wellhead prices for this area.

The fixed sliding scale formula operates in the following way:

When the quarterly value of production, adjusted for inflation, is less than or equal to $15.929025 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $15.929026 million, but less than or equal to $3423.822696 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$Rj = b\,[\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 9.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 2.50

When the adjusted quarterly value of production is equal to or greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding February 1980. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64.

(4) Bonus Bidding with a 12 1/2 Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been chosen for certain deeper water blocks proposed for the Mid-Atlantic Lease Offering (April 1983) because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water tracts. Department of the Interior analyses indicate that the minimum economically developable discovery on a block in such high cost areas under a 12 1/2 percent royalty system would be less than for the same blocks under a 16 2/3 percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to yield more rapid production rates and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary restraints to competition.

(B) Designation of Blocks. The selection of blocks to be offered under the four systems was based on the following factors:

(1) Lease terms on adjacent previously leased blocks were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(2) Generally, blocks in deep water were selected for 1/8 royalty based on the favorable performance of this system in these high cost areas.

The specific blocks to be offered under each system are as follows:

(a) Bonus Bidding with a 16 2/3 Percent Royalty--

Official Protraction Diagram No. NJ 18-3

237-245	497-512	760-769, 771-775
281-289	541-557	804-814, 816
325-333	585-597, 600-602	847-857
369-377	630-641, 644-645	891-902
412-421	673-688	934-946
454-465	716-725, 727-731	978-989

Official Protraction Diagram No. NJ 18-5

349	436-437	515-525
392-393	479-481	559-569

Official Protraction Diagram No. NJ 18-6

10-19, 21	224-233, 235	397-406
53-62, 65	266-280	441-450
96-102, 104-106	309-321, 324	485-489
138-148	353-365	529-533
181-191		

Official Protraction Diagram No. NJ 18-8

36-41	168-170	300
80-84	212-213	344
124-126	256	

Official Protraction Diagram No. NJ 18-9

1, 45

(b) Bonus Bidding with a Fixed Net Profit Share--

Official Protraction Diagram No. NJ 18-6

412, 456, 499, 629

(c) Bonus Bidding with a Sliding Scale Royalty--

Official Protraction Diagram No. NJ 18-3

17-35	193-205, 209-211	378, 381-385
61-79	246-255	422
105-123	293-299	428
149-162, 165-167	337-342	466

Official Protraction Diagram No. NJ 18-5

603-613	779-789	911-921
647-657	823-833	955-965
691-701	867-877	999-1009
735-745		

Official Protraction Diagram No. NJ 19-1

10-16	98-101	186-187
54-58	142-144	230

Official Protraction Diagram No. NJ 18-6

490	661-666	837
534	705-709	881, 884
573-578	749, 752	925-927
617-622	793	969

Official Protraction Diagram No. NJ 18-8

764-778	852-866	938-950
808-822	894-906	982-996

Official Protraction Diagram No. NJ 18-11

14-28	189-204	365-379
58-72	233-248	409-423
101-116	277-292	453-467
145-160	321-335	497-511

Official Protraction Diagram No. NK 18-12

701-702	829-834	958-966
744-746	872-878	1001-1010
787-790	915-922	

Official Protraction Diagram No. NK 19-10

242-247	499-511	757-775
285-291	541-555	801-819
327-335	584-599	845-863
370-379	627-643	889-902
413-423	669-687	933-944
456-467	713-731	977-986

(d) Bonus Bidding with a 12 1/2 Percent Royalty--

All remaining blocks.

Director, Minerals Management Service
Harold Doley

Approved: MAR 2 2 1983

Under Secretary of the Interior
J.J. Simmons III

[FR Doc. 83-7792 Filed 3-24-83; 8:45 am]
BILLING CODE 4310-MR-C

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Friday, March 25, 1983

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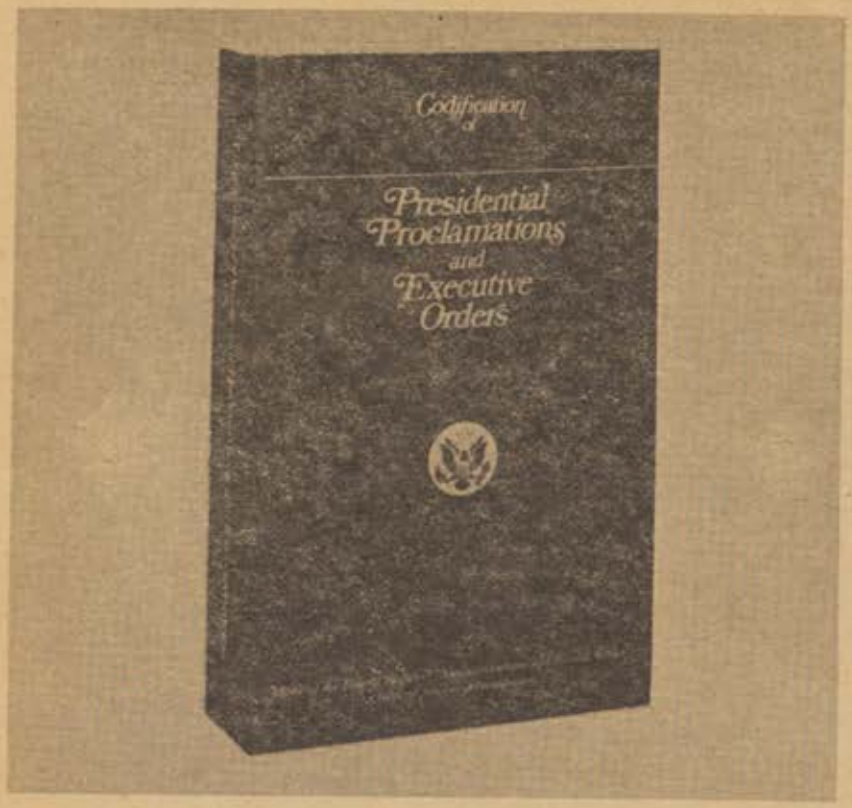

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