

3-30-83
Vol. 48 No. 62
Pages 13141-13390

Federal Register

Wednesday
March 30, 1983

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Civil Aeronautics Board

Air Pollution Control

Environmental Protection Agency

Cable Television

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National Credit Union Administration

Eggs

Agricultural Marketing Service

Fisheries

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Personnel Management Office

Medical Devices

Nuclear Regulatory Commission

Milk Marketing Orders

Agricultural Marketing Service

Motor Carriers

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Motor Vehicle Pollution

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Questions and requests for specific information may be directed to the telephone numbers listed under **INFORMATION AND ASSISTANCE** in the **READER AIDS** section of this issue.

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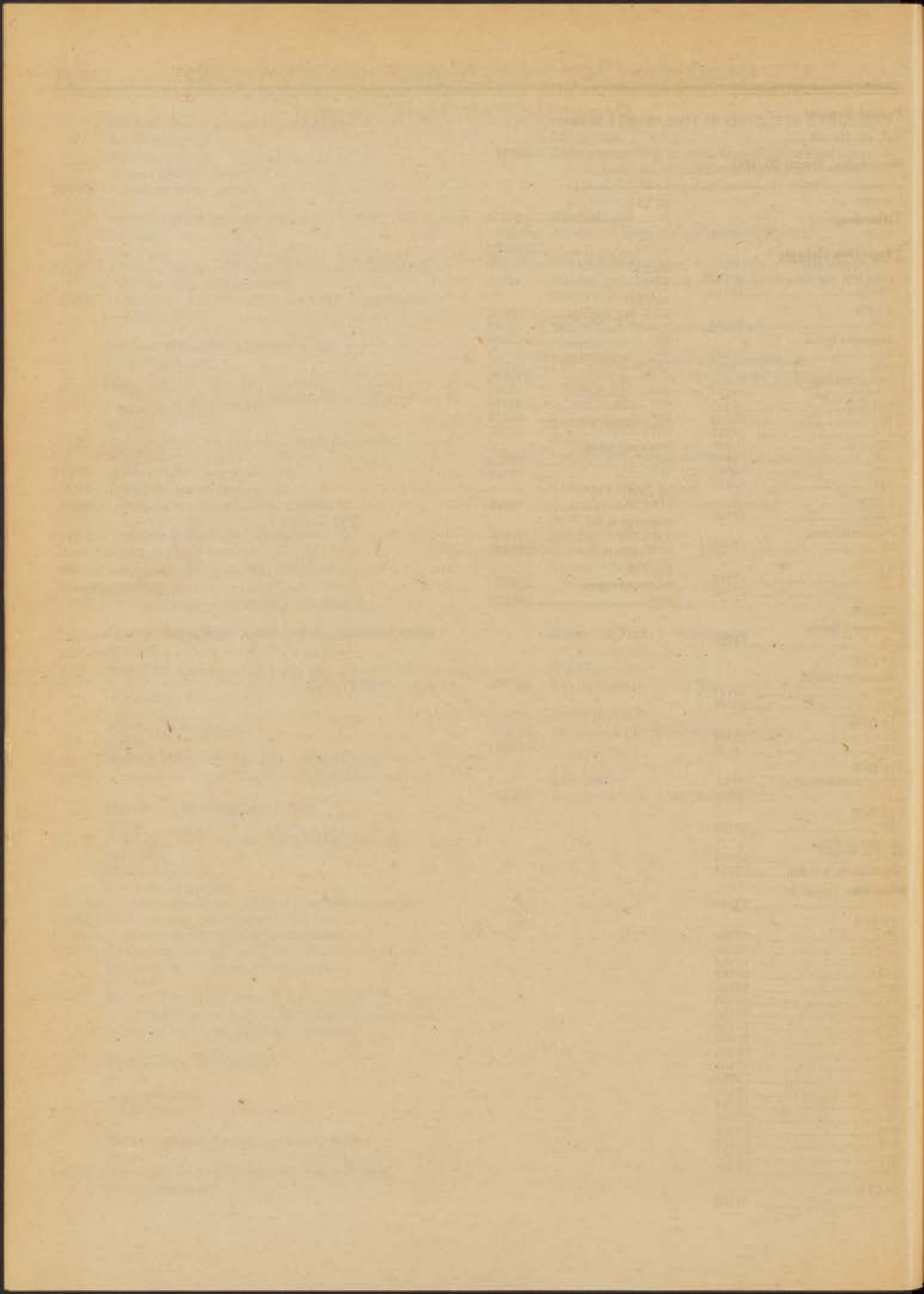
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Title 3—

Proclamation 5036 of March 25, 1983

The President

Asian/Pacific American Heritage Week, 1983

By the President of the United States of America

A Proclamation

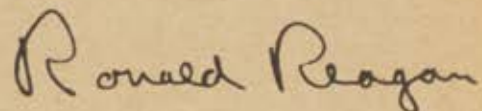
The strength of America lies in our free enterprise system, and the spirit of our great Nation grows out of the richness of our diverse cultural heritage and the hard work and convictions of our citizens.

Americans who have come to this land from Asian and Pacific countries have overcome great adversity and supreme challenges to make outstanding contributions to our Nation's progress in a wide range of fields—science, the arts, medicine, law, literature, agriculture, industry, commerce, and government.

As we celebrate the accomplishments of Asian and Pacific Americans, we are grateful to them for bringing to our shores the strong and varied traditions of their homelands and for greatly enriching our culture and our institutions. We appreciate and value their presence and treasure their enduring commitment to the unalienable right to life, liberty, and the pursuit of happiness.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby declare the week beginning May 7, 1983 as Asian/Pacific American Heritage Week and call upon the American people to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.



Professional Documents

Professional Documents

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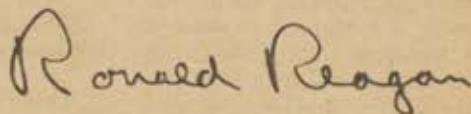
Presidential Documents

Executive Order 12410 of March 28, 1983

Exclusions From the Federal Labor-Management Relations Program

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b) of Title 5 of the United States Code, and in order to exempt an additional agency subdivision from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows: Executive Order No. 12171, as amended, is further amended by adding to Section 1-212 thereof the following new subsection:

"(v) The Joint Special Operations Command (JSOC).".

A handwritten signature in dark ink, reading "Ronald Reagan". The signature is written in a cursive, flowing style with a large initial "R".

THE WHITE HOUSE,

March 28, 1983.

Rules and Regulations

Federal Register

Vol. 48, No. 62

Wednesday, March 30, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1106

[Milk Order No. 106]

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain shipping standards for pooling supply plants under the Southwest Plains milk order during the months of March through July 1983. During these months, no shipments of milk to distributing plants from supply plants would be required in order to pool supply plants that were previously associated with the market. The action was requested by the operator of a pool supply plant because of increasing production and a decline in demand for milk in fluid uses. Because of a change in the market's supply-demand relationship, it is not anticipated that supply plant shipments will be necessary to furnish the fluid milk needs of distributing plants. Without the suspension, unneeded and uneconomic shipments of supply plant milk would likely be made solely for the purpose of pooling milk of dairy farmers who have historically furnished the fluid milk needs of the market.

EFFECTIVE DATE: March 30, 1983.

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

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of

Proposed Suspension; issued March 2, 1983; published March 8, 1983 (48 FR 9658).

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

It has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the completion of the required suspension procedures and the inclusion of March 1983 in the suspension period. The initial request for this action was received on February 24, 1983. A notice of proposed suspension was issued on March 2, 1983, inviting interested parties to submit comments on the proposed action on or before March 15, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to insure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the Federal Register (48 FR 9658) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of March through July 1983, the following

provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.6, the language "during the month".

2. In § 1106.7(b)(1), the language "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such February-August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) of this section are not less than 50 percent of receipts or diversions, as previously specified" and the language "until any month of such period in which the plant fails to meet the 20 percent shipping requirement".

Statement of Consideration

Under this action, no shipments of milk to distributing plants from supply plants would be required in order to pool supply plants that were previously associated with the market. The order currently defines a supply plant as a plant from which shipments are made to distributing plants during the month. Also, the order provides that supply plants that were pooled during each of the previous months of September through January under the Southwest Plains order or during the months of September through December 1982 under any of the four predecessor orders that were merged to form the Southwest Plains order effective January 1, 1983, will be pooled during the following months of February through August if not less than 20 percent of monthly receipts are shipped to pool distributing plants. This action would eliminate the supply plant shipping standards for pooling such plants during March-July 1983.

The action was requested by a handler who operates a supply plant that is currently pooled under the order on the basis of milk shipments to pool distributing plants. The plant was also pooled during each of the previous months of September 1982 through January 1983 under the Southwest Plains order or its predecessor orders. The handler requested the suspension because of a general increase in

production without a corresponding increase in the demand for milk in fluid use. Because of a change in the supply-demand relationship, it is not anticipated that any shipments from proponent's supply plant will be needed to furnish the fluid milk needs of distributing plants. Without the suspension, unneeded and uneconomic shipments of milk from supply plants would likely be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

Interested parties were given an opportunity to submit written data, views, or arguments concerning the suspension. A cooperative association that represents producers who supply the market supported the proposed action to facilitate the efficient disposition of an increasing supply of milk in excess of fluid milk needs. No views in opposition to the suspension were received.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without the suspension unneeded and uneconomic shipments of milk from supply plants would likely be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, milk, dairy products.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of March through July 1983.

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

Effective date: March 30, 1983.

Signed at Washington, D.C., on March 24, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-8104 Filed 3-29-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 100 and 103

Statement of Organization; Powers and Duties of Service Officers; Availability of Service Records; Organization Changes

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Immigration and Naturalization Service regulations to reflect the organization changes within the Service which have been approved by the Attorney General. Reorganization of the Service improves the management, direction, and control of Service programs which will enhance overall efficiency and provide better service to the public.

EFFECTIVE DATE: March 29, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536, Telephone: (202) 633-3048.

For Specific Information: John E. Naham, Acting Director, Office of Plans and Analysis, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536, Telephone: (202) 633-3242.

SUPPLEMENTARY INFORMATION:

On October 8, 1982, the proposed reorganization of the Central and Regional offices of the Immigration and Naturalization Service was approved by the Attorney General. Notification of the Service's reorganization was then sent to the Office of Management and Budget, and finally, to the Congress for their approval. The organization became effective on January 1, 1983.

The specific organizational changes of the Service are:

I. Central Office

A. Creation of an Executive Associate Commissioner position to oversee the Offices of Plans and Analysis,

Information Systems, Examinations, and overseas offices.

B. Establishment of the Office of Information Systems comprised of a Records division, a Systems division, an Office of Policy Directives and Instructions, and an Office of Information Systems Planning.

C. Within the Office of Examination, consolidation of the Adjudication and Naturalization functions into one Adjudication and Naturalization Division. In addition, upgrading of the Refugee, Asylum and Parole Unit to a Division.

D. Reconfiguration of the Office of Management to reintegrate allied management functions. The Comptroller, the Office of Evaluation, and the Equal Employment Opportunity Officer are now part of Management.

E. Creation of the Office of Plans and Analysis, to include, among other functions, planning, statistics, analysis and research.

II. Regional Offices

A. Elimination of the Deputy Regional Commissioner position.

B. Creation of a single Associate Regional Commissioner for Operations. Consolidation of Examinations and Enforcement under a single Associate Regional Commissioner for Operations.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not required because the rule relates solely to agency organization and management.

The rule will not have a significant economic impact on a substantial number of small entities since it relates solely to internal management and is exempt from the requirements of E.O. 12291 as set out under Section 1(a)(3) thereof.

List of Subjects

8 CFR Part 100

Administrative practice and procedure, Authority delegation, Harbors, Organization and functions, Port of entry (both aircraft and vessels).

8 CFR Part 103

Administrative practice and procedure, Archives and records, Authority delegation, Freedom of Information Act, Organization and functions.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

1. In Part 100, § 100.1 is revised to read as follows:

§ 100.1 Introduction.

This Part describes the organization and functions of the Immigration and Naturalization Service, procedures for obtaining and submitting information by the public, locations and organization of Service field offices, and the Service's rulemaking authority.

2. In Part 100, § 100.2 is revised to read as follows:

§ 100.2 Organization and functions.

(a) *Office of the Commissioner.* The Attorney General has delegated to the Commissioner, the principal officer of the Immigration and Naturalization Service, authority to administer and enforce the Immigration and Nationality Act and all other laws relating to immigration, naturalization, and nationality as prescribed and limited by 28 CFR 0.105 *et seq.*

(1) *Office of the General Counsel.* The Office of the General Counsel, headed by the General Counsel, provides legal advice to the Commissioner and staff, prepares legislative reports, assists in litigation and prepares briefs and other legal memoranda when necessary, directs the activities of regional counsels, oversees the professional activities of all Service attorneys assigned to field offices, and makes recommendations on all personnel matters involving Service attorneys.

(2) *Office of Congressional and Public Affairs.* Headed by the Director for Congressional and Public Affairs, a staff member to the Commissioner, responds to congressional inquiries, advises the Commissioner and staff concerning legislative matters, directs and coordinates public notices, announcements, press releases, and other public information.

(3) *Office of Professional Responsibility.* Headed by the Director for Professional Responsibility who is subject to the general supervision and direction of the Commissioner, and who supervises, directs, and coordinates the Professional Responsibility Program.

(4) *Office of Field Inspections and Audit.* Headed by the Director for Field Inspections and Audit who is subject to the general supervision and direction of the Commissioner and who supervises, directs, and coordinates the Field Inspections and Audit Program.

(b) *Office of the Deputy Commissioner.* Headed by the Deputy Commissioner who is authorized to exercise all power and authority of the

Commissioner unless any such power or authority is required to be exercised by the Commissioner personally or has been specifically delegated to another Service official or class of Service officer.

(1) *Office of Enforcement.* Headed by the Associate Commissioner for Enforcement who is responsible for planning, developing, directing, coordinating, and reporting on Service enforcement programs and activities, and participating in formulating Service enforcement policies. The Associate Commissioner for Enforcement directly supervises:

- (i) Border Patrol Division,
- (ii) Investigations Division,
- (iii) Detention and Deportation Division,
- (iv) Office of Anti-Smuggling, and
- (v) Intelligence Unit.

(2) *Office of Management.* Headed by the Associate Commissioner for Management who is responsible for planning, developing, directing, coordinating, and reporting on Service management programs and activities participating in formulating Service management policies. The Associate Commissioner for management directly supervises:

- (i) Office of the Comptroller,
- (ii) Personnel and Training Division,
- (iii) Administration Division,
- (iv) EEO Officer, and
- (v) Office of Evaluation.

(c) *Office of the Executive Associate Commissioner.* Headed by the Executive Associate Commissioner who assists the Commissioner and Deputy Commissioner in all aspects of the administration of the Immigration and Naturalization Service by development and overall coordination of Servicewide policies and programs. The Executive Associate Commissioner provides general direction to and supervision of the Office of Plans and Analysis, Office of Information Systems, Office of Examinations, and all overseas offices.

(1) *Office of Plans and Analysis.* Headed by the Director for Plans and Analysis who is responsible for developing overall Service policies, strategic plans and programs, reviewing and analyzing the budget, and administering the Service's statistics and research programs.

(2) *Office of Information Systems.* Headed by the Associate Commissioner for Information Systems who is responsible for planning, developing, directing, coordinating, and reporting on Service information management programs and activities including automated data processing and telecommunications. The Associate

Commissioner for Information Systems directly supervises:

- (i) Records Systems Division,
- (ii) Data Systems Division,
- (iii) Office of Policy Directives and Instructions, and
- (iv) Office of Information Systems Planning.

(3) *Office of Examinations.* Headed by the Associate Commissioner for Examinations who is responsible for planning, developing, directing, coordinating, and reporting on Service Examinations program activities, and participating in formulating Service Examinations policies. The Associate Commissioner for Examinations directly supervises:

- (i) Adjudication and Naturalization Division,
- (ii) Inspections Division,
- (iii) Refugees, Asylum and Parole Division, and
- (iv) Office of Outreach Program.

(d) *Offices of the Regional Commissioners.* Headed by regional commissioners who are assisted by associate regional commissioners for operations and associate regional commissioners for management, the regional commissioners are responsible for the administration and enforcement of all laws relating to immigration, nationality, and naturalization within their assigned geographic areas of activity. Regional commissioners are subject to the general supervision of the Commissioner and the direction of the Deputy Commissioner. Regional commissioners provide general guidance and supervision to:

- (1) Service districts within their regions, and
- (2) Border Patrol sectors within their regions.

(e) *Service districts.* Headed by district directors who may be assisted by deputy district directors, the district directors are responsible for the administration and enforcement of the Act and all other laws relating to immigration and naturalization within their assigned geographic areas of activity unless any such power and authority is required to be exercised by higher authority or has been exclusively delegated to another immigration official or class of immigration officer. District directors are subject to the general supervision and direction of their respective regional commissioners except that district directors outside of the United States are subject to the general supervision and direction of the Executive Associate Commissioner.

(f) *Border Patrol sectors.* Headed by chief patrol agents who may be assisted by deputy chief patrol agents, the chief

patrol agents are responsible for the enforcement of the Act and all other laws relating to immigration and naturalization within their assigned geographic areas of activity unless any such power and authority is required to be exercised by higher authority or has been exclusively delegated to another immigration official or class of immigration officer. Chief patrol agents are subject to the general supervision and direction of their respective regional commissioners.

§ 100.4 [Amended]

3. In part 100, paragraph (e) of § 100.4 is removed.

(Sec. 103, 86 Stat. 173; 8 U.S.C. 1103)

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

4. In Part 103, § 103.1 is amended by revising paragraphs (a)-(j), (l), (m), (n) and (p), by removing the introductory text and paragraph (m-1), and by removing and reserving paragraphs (k) and (r) as follows:

§ 103.1 Delegations of Authority.

(a) *Deputy Commissioner.* Without divesting the Commissioner of any of the powers, duties, and privileges delegated by the Attorney General, coextensive authority is delegated to the Deputy Commissioner. The Deputy Commissioner is delegated responsibility for providing general direction to and supervision of the Executive Associate Commissioner, Associate Commissioner for Enforcement, Associate Commissioner for Management, and the regional commissioners.

(b) *Executive Associate Commissioner.* Under the direction of the Commissioner and Deputy Commissioner, the Executive Associate Commissioner assists in all aspects of the administration of the Immigration and Naturalization Service and is delegated the authority and responsibility for providing general direction to and supervision of the Associate Commissioner for Information Systems, Associate Commissioner for Examinations, and the Director for Plans and Analysis, and also to direct and support Service overseas operations.

(c) *Associate Commissioner for Enforcement.* Under the direction of the Deputy Commissioner, the Associate Commissioner for Enforcement is delegated authority and responsibility for program planning, development, coordination, evaluation, counseling, and staff direction of the Border Patrol, Investigations, Detention and

Deportation, Anti-Smuggling, and Intelligence programs, and general direction and supervision of:

(1) Assistant Commissioner for Border Patrol,

(2) Assistant Commissioner for Investigations,

(3) Assistant Commissioner for Detention and Deportation,

(4) Director for Anti-Smuggling, and

(5) Program Manager for Intelligence.

(d) *Associate Commissioner for Management.* Under the direction of the Deputy Commissioner, the Associate Commissioner for Management is delegated authority and responsibility for program planning, development, coordination, evaluation, counseling, and staff direction of the Comptroller, Personnel and Training, Administration, Equal Employment Opportunity Complaints Processing, and Evaluations programs, and general direction to and supervision of:

(1) Comptroller,

(2) Assistant Commissioner for Personnel and Training,

(3) Assistant Commissioner for Administration,

(4) Equal Employment Opportunity Officer, and

(5) Director for Evaluation.

(e) *Associate Commissioner for Information Systems.* Under the direction of the Executive Associate Commissioner, the Associate Commissioner for Information Systems is delegated authority and responsibility for program planning, development, coordination, evaluation, counseling, and staff direction of the Record Systems, Data Systems, Policy Directives and Instructions, and Information Systems Planning programs, and general direction to and supervision of:

(1) Assistant Commissioner for Records Systems,

(2) Assistant Commissioner for Data Systems,

(3) Director for Policy Directives and Instructions, and

(4) Director for Information Systems Planning.

(f) *Associate Commissioner for Examinations.* Under the direction of the Executive Associate Commissioner, the Associate Commissioner for Examinations is delegated authority and responsibility for program planning, development, coordination, counseling, and staff direction of Adjudication and Naturalization, Inspections, Refugees, Asylum and Parole, and Outreach programs and general direction to and supervision of:

(1) Assistant Commissioner for Adjudication and Naturalization,

(2) Assistant Commissioner for Inspections,

(3) Assistant Commissioner for Refugees, Asylum and Parole, and

(4) Director for Outreach Program.

(g) *General Counsel.* Under the direction of the Commissioner, the General Counsel is delegated the responsibility of chief legal officer for the Service and is assisted by a Deputy General Counsel and staff. The General Counsel advises the Commissioner and staff on legal matters, prepares legislative reports, assists in litigation, including preparing briefs and other legal memoranda as necessary. Acting through the regional counsels, the General Counsel is delegated the responsibility for overseeing the professional activities of all Service attorneys assigned to field offices, making recommendations to the Department of Justice on all personnel matters involving Service attorneys, including attorney discipline which requires final action or approval by the Associate Attorney General or other designated Department of Justice official. The General Counsel is delegated authority and the responsibility to perform the functions conferred upon the Commissioner with respect to production or disclosure in federal proceedings as provided in 28 CFR 16.24(a).

(h) *Director for Congressional and Public Affairs.* Under the direction of the Commissioner, and assisted by a Deputy Director for Congressional and Public Affairs, the Director for Congressional and Public Affairs is delegated responsibility for program planning, development, coordination, and execution of programs relating to Congressional and public affairs of the Service, including Public Information Program activities.

(i) *Director for Professional Responsibility.* Under the direction of the Commissioner, the Director for Professional Responsibility is delegated authority, and responsibility for program planning, coordinating, evaluating, reporting, and counseling relating to the Professional Responsibility Program. The Director for Professional Responsibility reports directly to the Commissioner and to a designated Department of Justice official in matters relating to the Professional Responsibility Program.

(j) *Director for Field Inspections and Audit.* Under the direction of the Commissioner, the Director for Field Inspections and Audit is delegated the responsibility for program planning, development, coordination, and execution of field inspections and audits

and to report to the Commissioner, in a timely manner, the results and recommendations of all completed field inspections and audits.

(k) [Reserved].

(l) *Regional Commissioners.* Under the general supervision of the Commissioner and direction of the Deputy Commissioner, regional commissioners are delegated the authority and responsibility for the activities of the Service within their respective regional areas including:

(1) Authority to:

(i) Settle tort claims of \$2500 or less under 28 U.S.C. 2672; and
(ii) Compromise, suspend, or terminate collection of claims of the United States not exceeding \$20,000 exclusive of interest under 31 U.S.C. 951 and 952; and

(2) Appellate jurisdiction over decisions on:

(i) Breaching of bonds under § 103.6(e) of this part;
(ii) Third and sixth preference petitions under § 204.1(c) of this title except when the denial of the petition is based upon lack of a certification by the Secretary of Labor under section 212(a)(14) of the Act;

(iii) Indochinese refugee applications for adjustment of status under § 245.2(a)(4) and (e) of this title;

(iv) Orphan petitions under § 204.1(b) of this title;

(v) Applications for advance processing of orphan petitions under § 204.1(b)(3) of this title;

(vi) Revoking approval of certain petitions under § 205.3 of this title;

(vii) Applications for permission to reapply for admission to the United States after deportation or removal under § 212.2 of this title;

(viii) Applications for waiver of certain grounds of excludability under § 212.7(a) of this title;

(ix) Applications for waiver of the two-year foreign residence requirement under § 212.7(c) of this title;

(x) Petitions for approval of schools under § 214.3 of this title;

(xi) Petitions for temporary workers or trainees and fiancées or fiancés of U.S. citizens under § 214.2 of this title;

(xii) Applications for issuance of reentry permits under § 223.1 of this title;

(xiii) Applications for refugee travel documents under § 223a.4 of this title;

(xiv) Applications for benefits of section 13 of the Act of September 11, 1957, as amended, under § 245.3 of this title;

(xv) Adjustment of status of certain

resident aliens to nonimmigrants under § 247.12(b) of this title;

(xvi) Applications for change of nonimmigrant status under § 248.3(d) of this title;

(xvii) Applications to preserve residence for naturalization purposes under § 318a.21(c) of this title;

(xviii) Applications for certificates of citizenship under § 341.6 of this title;

(xix) Administrative cancellation of certificates; documents, and records under § 342.8 of this title;

(xx) Applications for certificates of naturalization or repatriation under § 343.1 of this title;

(xxi) Applications for new naturalization or citizenship papers under § 343a.1(c) of this title;

(xxii) Applications for special certificates of naturalization under § 343b.11(b) of this title; and

(xxiii) Applications by organizations to be listed on the Service listing of free legal services program and removal therefrom under Part 292a of this title.

(m) *Regional Counsels.* In addition to other legal activities performed under the executive direction of the General Counsel, regional counsels are delegated authority within their respective regional areas, concurrent with that of the General Counsel, to approve production or disclosure in federal proceedings as provided in 28 CFR 16.24(a).

(n) *District Directors.* District directors within the United States are under the direction of their respective regional commissioners. District directors who are assigned overseas are under the direction of the Executive Associate Commissioner. District directors are delegated the authority and responsibility to grant or deny any application or petition submitted to the Service, to initiate any authorized proceeding in their respective districts, and to exercise the authorities under §§ 242.1(a), 242.2(a), and 242.7 of this title without regard to geographical limitations. District directors outside the United States are delegated all appellate jurisdiction specified in this chapter not reserved to the Executive Office for Immigration Review and the Board of Immigration Appeals for matters arising in their respective districts. District directors, acting district directors, and deputy district directors are delegated authority to conduct the proceeding provided for in § 252.5 of this title.

(p) *Chief Patrol Agents.* Under the direction of their respective regional commissioners, chief patrol agents are delegated authority and responsibility

for the Border Patrol activities of the Service within their respective sectors, including exercising the authority in section 242(b) of the Act to permit aliens to depart voluntarily from the United States prior to commencement of hearing.

(r) [Reserved].

(Secs. 501, 65 Stat. 290; 103, 66 Stat. 173; 31 U.S.C. 483a, 8 U.S.C. 1103)

Dated: March 23, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83-8066 Filed 3-29-83; 8:45 am]

BILLING CODE 4410-10-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Docket 39498; Regulation ER-1319A]

Uniform System of Accounts and Reports for Certificated Air Carriers; Amendment of Fuel Cost and Consumption Reporting; Approval of Reporting Requirements by OMB

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Approval of Reporting Requirements by the Office of Management and Budget.

SUMMARY: The Civil Aeronautics Board reduced the amount of fuel cost and consumption data reported monthly by certificated air carriers, in ER-1319 (48 FR 3941, January 28, 1983). The Office of Management and Budget approved the revised reporting requirements contained in this final rule through February 29, 1984, under OMB No. 3024-0013.

DATES: Effective: April 1, 1983. Adopted: March 24, 1983.

FOR FURTHER INFORMATION CONTACT:

Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-8042.

List of Subjects in 14 CFR Part 241

Air carriers, Uniform System of Accounts and Reports.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-8206 Filed 3-29-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 253**[Docket 40772; Regulation ER-1323A]****Terms of Contract of Carriage;
Approval of Reporting Requirements
by OMB****AGENCY:** Civil Aeronautics Board.**ACTION:** Notice of Approval of Reporting Requirements by the Office of Management and Budget.

SUMMARY: The Civil Aeronautics Board extended its rules regarding notice of terms of contract of carriage to all scheduled airlines regardless of the size of aircraft used, or whether they interline with other carriers, in ER-1323 (48 FR 6317, February 11, 1983). The Office of Management and Budget approved the revised reporting requirements contained in this final rule through March 31, 1986, under OMB No. 3024-0061.

DATES: Effective: March 12, 1983.

Adopted: March 24, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

List of Subjects in 14 CFR Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Law, Travel.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-6047 Filed 3-29-83; 8:45 am]

BILLING CODE: 6320-01-M

FEDERAL TRADE COMMISSION**16 CFR Part 13****[Docket 9151]****Champion Home Builders Co.;
Prohibited Trade Practices, and
Affirmative Corrective Actions****AGENCY:** Federal Trade Commission.**ACTION:** Consent Order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Dryden, Mich. manufacturer and seller of solar energy equipment, among other things, to cease making false or unsubstantiated representations concerning the performance, durability, quality and maintenance requirements of its solar energy equipment. Also prohibited are

unsubstantiated claims concerning the energy- and money-savings potential realized from use of such equipment. Further, the order requires the company to contact all purchasers of its equipment and inform them that the company is offering cash settlements to eligible persons. Those accepting the cash settlement would waive any legal claims they may have against the company, and any rights to receive service or repairs under the manufacturer's warranty. Additionally, the company must send a warning package to all purchasers of its equipment, notifying them of precautions that should be taken to minimize any potential for fire in Champion-manufactured solar energy equipment.

DATES: Complaint issued February 5, 1981. Decision and Order issued February 17, 1983.*

FOR FURTHER INFORMATION CONTACT: FTC/PA, Marilyn J. Holmes, Washington, D.C. 20580. (202) 724-0727.

SUPPLEMENTARY INFORMATION: On Monday, November 8, 1982, there was published in the Federal Register, 47 FR 50502, a proposed consent agreement with analysis in the Matter of Champion Home Builders Co., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has made its jurisdictional findings and entered its modified order to cease and desist, as set forth below, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages, or connections; 13.15-30 Connections or arrangements with others; 13.15-250 Qualifications and abilities; 13.15-278 Time in business; § 13.50 Dealer or seller assistance; § 13.170 Qualities or properties of product or service; 13.170-20 Cooling, refrigerating; 13.170-30 Durability or permanence; 13.170-34 Economizing or saving; 13.170-43 Heating; § 13.175 Quality of product or service; § 13.185 Refunds, repairs and replacements; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.225 Services. Subpart—Corrective Actions and/or

Requirements; § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records; 13.533-45(a) Advertising substantiation; 13.533-45(e) Correspondence; 13.533-57 Restitution. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections; § 13.1395 Connections and arrangements with others; § 13.1485 Manufacturer's operations; § 13.1535 Qualifications.—Goods; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported. Subpart—Neglecting, Unfairly or Deceptively. To Make Material Disclosure; § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Solar energy equipment, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The modified order to cease and desist is as follows:

In the matter of Champion Home Builders Co., a corporation; Docket No. 9151.

Decision and Order

The Commission having heretofore issued its complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with § 3.25(c) of its Rules; and

The Commission having considered the matter, having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the

*Copies of the Complaint filed with the original document.

comments filed thereafter pursuant to § 3.25(f) of its Rules; and

Respondent and complaint counsel having thereafter submitted modifications to the consent agreements by letter dated January 14, 1983;

Now in further conformity with the procedure prescribed in § 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Champion Home Builders Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 5573 East North Street, in the City of Dryden, State of Michigan.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Order

For purposes of this Order, the following definitions shall apply:

(1) "Solar energy equipment" shall mean all space heating or cooling or water heating equipment utilizing energy from the sun, including but not limited to Solar Furnaces and solar collectors manufactured by respondent, whether sold under the Champion brand name or another brand name.

(2) "Solar Furnace" shall mean the solar heating equipment manufactured by respondent between approximately 1976 and 1979, consisting of a self-contained A-frame structure with a collector and storage compartment, including but not limited to equipment designated by respondent, or possessing the same design and physical characteristics as equipment designated by respondent, as models 96, 128, 160, 1500, 2000, and 2500, whether sold under the Champion brand name or another brand name.

(3) "Solar collector" shall mean the solar heating equipment manufactured by respondent between approximately 1976 and 1979, consisting of a glass-covered box with a dark absorber surface over which air can pass, including but not limited to the product marketed under the name "Champion Vertafin Collector."

(4) "Solar collector system" shall mean each distinct system of solar collector(s), air handlers, and controls.

(5) As used in this Order, the requirement to cease and desist from representing or misrepresenting shall include representing or misrepresenting orally, visually, in writing, or in any other manner, directly or by implication.

(6) "Competent and reliable scientific test" shall mean a test in which persons

with skill and expert knowledge in the field to which the test pertains conduct the test and evaluate its results in an objective manner using testing, evaluation, and analytical procedures that ensure accurate and reliable results.

(7) "Purchaser" shall mean any person who purchased a Solar Furnace or solar collector for his or her own use as heating equipment or as a demonstrator, and who did not sell any Solar Furnace or solar collector (except for second-hand resale of the Solar Furnace or solar collector purchased by such person for his or her own use). This term shall include any dealer as defined below who did not sell any Solar Furnace or solar collector (except for second-hand resale of the Solar Furnace or solar collector purchased by such dealer for his or her own use).

(8) "Dealer" shall mean any person authorized by respondent, by a distributor of respondent, or by a licensee or a distributor of a licensee of International Solarthermics Corporation, to sell Solar Furnaces or solar collectors to purchasers.

(9) "Eligible direct purchaser" shall mean any purchaser who purchased a Champion brand name Solar Furnace or solar collector, as new. This term shall not include any purchaser who, prior to April 1, 1982, waived all claims with respect to the Solar Furnace or solar collector in exchange for monetary compensation, or who received a judgment in a court of law for monetary damages or for a full or partial refund of the purchase price in an action against respondent with respect to the Solar Furnace or solar collector.

(10) "Eligible direct dealer" shall mean any dealer who purchased a Champion brand name Solar Furnace or solar collector, as new, for his or her own use as heating equipment or as a demonstrator, and who sold at least one but less than three Solar Furnaces and solar collectors to purchasers. This term shall not include any dealer who, prior to April 1, 1982, waived all claims with respect to the Solar Furnace or solar collector in exchange for monetary compensation, or who received a judgment in a court of law for monetary damages or for a full or partial refund of the purchase price in an action against respondent with respect to the Solar Furnace or solar collector.

(11) "Eligible licensee purchaser" shall mean any purchaser who purchased a Solar Furnace or solar collector of a brand name other than Champion, as new. This term shall not include any purchaser who, prior to April 1, 1982, waived all claims with respect to the Solar Furnace or solar collector in exchange for monetary compensation, or

who received a judgment in a court of law for monetary damages or for a full or partial refund of the purchase price in an action against respondent with respect to the Solar Furnace or solar collector.

Part I

It is ordered that respondent Champion Home Builders Co., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacture, advertising, offering for sale, sale, or distribution of any solar energy equipment in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Representing in any manner that:

(1) Respondent's solar energy equipment does not have any defect which substantially impairs the reliability, durability, or performance of the equipment;

(2) Little or no maintenance is required to keep respondent's solar energy equipment in operating condition;

(3) Respondent's solar energy equipment, or any material or component thereof, is durable or reliable;

(4) Respondent's solar energy equipment, or any material or component thereof, is not adversely affected by high temperatures;

(5) Respondent has 60 factories producing solar energy equipment, has a 22-year record of mass producing solar energy equipment, or has 3,200 trained dealers nationwide to provide prompt service on its solar energy equipment; or

(6) Competent, independently conducted tests have verified the performance or quality of respondent's solar energy equipment;

unless such representation is true, and unless, at the time that the representation is made, respondent possesses and relies upon a competent and reliable scientific test or other objective material which substantiates the representation.

B. Representing in any manner the thermal or economic performance or efficiency, energy savings, heat output, cost recovery, "payback" potential, or investment potential of respondent's solar energy equipment unless such representation is true, and unless, at the time that the representation is made, respondent possesses and relies upon a competent and reliable scientific test or

other objective material which substantiates the representation.

C. Misrepresenting in any manner:

- (1) The reliability, durability, performance capabilities, or maintenance requirements of respondent's solar energy equipment;
- (2) The production capabilities, manufacturing experience, or service capabilities of respondent relating to solar energy equipment; or
- (3) The results or conclusions of any test upon which respondent relies to substantiate any representation relating to solar energy equipment.

Part II

It is further ordered that respondent shall:

A. Within 45 days after the date of service of this Order, determine the names and last known addresses of all purchasers and the names and last known addresses of all dealers. In making these determinations, respondent shall search all relevant records in its possession, custody, or control, and shall obtain and search all relevant service and repair records maintained by International Solar Technologies, Inc. as of the date of service of this Order.

B. Send by first-class mail, address correction requested, within 45 days after the date of service of this Order, to the last known address of each purchaser and dealer identified by respondent pursuant to Subpart A of this Part or identified by the Federal Trade Commission or its staff, a notice package consisting of: (1) A copy of the letter attached to this Order as Attachment A, incorporated herein by reference, with the return date filled in; (ii) a copy of the questionnaire form attached to this Order as Attachment B, incorporated herein by reference, with the return date filled in; (iii) a self-addressed, postage-paid envelope; and (iv) an envelope containing materials described in subsections (i) through (iii) and bearing the legend "CHAMPION SOLAR PROGRAM, IMPORTANT CASH SETTLEMENT OFFER." For the purpose of this Subpart, the return date shall be the date 90 days after the date of service of this Order.

Respondent shall also send by first-class mail a notice package to each person who, within 85 days after the date of service of this Order, contacts respondent or about whom respondent receives information indicating that the person may be a purchaser or dealer, and who has not received a notice package or received a notice package but subsequently lost it. The notice package shall be sent within five days

after respondent's receipt of the contact or information.

Provided that respondent may refrain from sending a notice package to any person identified pursuant to Subparts A or B of this Part who respondent's records conclusively show is not an eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser.

C. Determine all eligible direct purchasers, eligible direct dealers, and eligible licensee purchasers. These determinations shall be based upon all information received by respondent from returned Attachment B questionnaires, and all other information in respondent's possession, as of the date 105 days after the date of service of this Order.

Provided that respondent may determine that a person is or is not an eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser notwithstanding the information provided by such person in an Attachment B form if respondent's records conclusively show that the person does or does not meet the definition of eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser as set forth in Definitions (9), (10), and (11) of this Order.

D. Determine a tentative cash settlement amount for each eligible direct purchaser and eligible direct dealer identified pursuant to Subpart C of this Part. The tentative cash settlement amounts shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector and shall consist of the following:

- (1) \$1500 for each Solar Furnace or solar collector system purchased by an eligible direct purchaser who currently owns the unit(s) or who disposed of the unit(s) not for value;
- (2) \$1000 for each Solar Furnace or solar collector system purchased by an eligible direct purchaser and subsequently disposed of for value; and
- (3) \$750 for each Solar Furnace or solar collector system purchased by an eligible direct dealer which was purchased for the dealer's own use, either as hearing equipment or as a demonstrator.

Provided that if the aggregate dollar value of all tentative cash settlements determined pursuant to subsections (1) through (3) of this subpart exceeds \$375,000, then each tentative cash settlement shall be prorated by multiplying the tentative cash settlement amount by the ratio of \$375,000 to the aggregate dollar value of all tentative cash settlements determined pursuant to subsections (1) through (3).

E. Determine a tentative cash settlement amount for each eligible licensee purchaser identified pursuant to Subpart C of this Part. The tentative cash settlement amounts shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector and shall consist of the following:

- (1) \$750 for each Solar Furnace or solar collector system purchased by an eligible licensee purchaser who currently owns the unit(s) or who disposed of the unit(s) not for value; and
- (2) \$500 for each Solar Furnace or solar collector system purchased by an eligible licensee purchaser and subsequently disposed of for value.

Provided that if the aggregate dollar value of all tentative cash settlements determined pursuant to subsections (1) and (2) of this Subpart exceeds \$150,000 plus any remaining portion of the \$375,000 amount provided in Subpart D, then each tentative cash settlement shall be prorated by multiplying the tentative cash settlement amount by the ratio of \$150,000 plus any remaining portion of the \$375,000 amount to the aggregate dollar value of all tentative cash settlements determined pursuant to subsections (1) and (2).

F. Send by first-class mail, within 125 days after the date of service of this Order, to each eligible direct purchaser, eligible direct dealer, and eligible licensee purchaser who is determined pursuant to Subpart C of this Part: (i) a copy of the letter attached to this Order as Attachment C, incorporated herein by reference, with the tentative cash settlement amount and the return date filled in; (ii) a copy of the acceptance and waiver form attached to this Order as Attachment D, incorporated herein by reference, with the tentative cash settlement amount, the return date, and the date of the Attachment C letter filled in; and (iii) a self-addressed, postage-paid envelope. The tentative cash settlement amount shall be determined as provided in Subparts D and E of this Part. For the purposes of this Subpart, the return date shall be the date 155 days after the date of service of this order.

G. Send by first-class mail, within 180 days after the date of service of this Order, a cash settlement check to each eligible direct purchaser and eligible direct dealer who returned to respondent a signed Attachment D form which was received by respondent on or before the date 170 days after the date of service of this Order. Each cash settlement shall be in the amount determined as provided in Subpart D, subsections (1) through (3) of this Part,

and shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector.

Provided that if the aggregate dollar value of all cash settlements as determined above exceeds \$375,000, then each cash settlement shall be prorated by multiplying the cash settlement amount by the ratio of \$375,000 to the aggregate dollar value of all cash settlements as determined above.

H. Send by first-class mail, within 240 days after the date of service of this Order, a cash settlement check to each eligible licensee purchaser who returned to respondent a signed Attachment D form which was received by respondent on or before the date 170 days after the date of service of this Order. Each cash settlement shall be in the amount determined as provided in Subpart E, subsections (1) and (2) of this Part, and shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector.

Provided that if the aggregate dollar value of all cash settlements as determined above exceeds \$150,000 plus any undistributed portion of the \$375,000 fund provided in Subpart G of this Part, then each cash settlement shall be prorated by multiplying the cash settlement amount by the ratio of \$150,000 plus any undistributed portion of the \$375,000 fund to the aggregate value of all cash settlement as determined above.

I. Send by first-class mail to each person who, within 86 to 270 days after the date of service of this Order, contacts respondent or about whom respondent receives information indicating that the person may be a purchaser or dealer, and who has not received a notice package as provided in Subpart B or who received a notice package as provided in Subpart B but subsequently lost it, a notice package consisting of: (i) a copy of the letter attached to this Order as Attachment E, incorporated herein by reference, with the return date filled in; (ii) a copy of Attachment B, with the return date filled in; (iii) a self-addressed, postage-paid envelope; and (iv) an envelope containing the materials described in subsections (i) through (iii) and bearing the legend "CHAMPION SOLAR PROGRAM, IMPORTANT CASH SETTLEMENT OFFER." For the purposes of this Subpart, the return date shall be the date 275 days after the date of service of this Order. The notice package shall be sent within five days after respondent's receipt of the contact or information.

Provided that respondent may refrain from sending a notice package to any person whose respondent's records conclusively show is not an eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser.

J. Determine all additional eligible direct purchasers, eligible direct dealers, and eligible licensee purchasers. These persons shall include (i) persons whose Attachment B forms were received by respondent subsequent to the date 105 days after the date of service of this Order, and (ii) persons whose Attachment D forms were received by respondent subsequent to the date 170 days after the date of service of this Order. The determinations shall be based upon all information received by respondent from returned Attachment B questionnaires, and all other information in respondent's possession, as of the date 290 days after the date of service of this Order.

Provided that respondent may determine that a person is or is not an eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser notwithstanding the information provided by such person in an Attachment B form if respondent's records conclusively show that the person does or does not meet the definition of eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser as set forth in Definitions (9), (10), and (11) of this Order.

K. Determine a tentative cash settlement amount for each eligible direct purchaser, eligible direct dealer, and eligible licensee purchaser identified pursuant to Subpart J of this Part. The tentative cash settlement amounts shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector and shall consist of those amounts specified in Subpart D, subsections (1) through (3) and Subpart E, subsections (1) and (2) of this Part.

Provided that if the aggregate dollar value of all tentative cash settlements determined above exceeds \$25,000 plus any undistributed portion of the \$375,000 and \$150,000 funds provided in Subparts G and H of this Part, then each tentative cash settlement shall be prorated by multiplying the tentative cash settlement amount by the ratio of \$25,000 plus any undistributed portion of the \$375,000 and \$150,000 funds to the aggregate value of all cash settlements as determined above.

L. Send by first-class mail, within 310 days after the date of service of this Order, to each eligible direct purchaser, eligible direct dealer and eligible licensee purchaser who is determined pursuant to Subpart J(i) of this Part: (i) a

copy of Attachment C, with the tentative cash settlement amount and the return date filled in; (ii) a copy of Attachment D, with the tentative cash settlement amount, the return date, and the date of the Attachment C letter filled in; and (iii) a self-addressed, postage-paid envelope. The tentative cash settlement amount shall be determined as provided in Subpart K of this Part. For the purposes of this Subpart, the return date shall be the date 340 days after the date of service of this Order.

M. Send by first-class mail, within 310 days after the date of service of this Order, to each eligible direct purchaser, eligible direct dealer and eligible licensee purchaser who is determined pursuant to Subpart J(ii) of this Part and whose new tentative cash settlement amount is less than the tentative cash settlement amount previously determined for that person pursuant to Subpart D or E of this Part: (i) a copy of the letter attached to this Order as Attachment F, incorporated herein by reference, with the new tentative cash settlement amount and the return date filled in; (ii) a copy of Attachment D, with the new tentative cash settlement amount, the return date, and the date of the Attachment F letter filled in; and (iii) a self-addressed, postage-paid envelope. The new tentative cash settlement amount shall be determined as provided in Subpart K of this Part. For the purposes of this Subpart, the return date shall be the date 340 days after the date of service of this Order.

N. Send by first-class mail, within 365 days after the date of service of this Order, a cash settlement check to each eligible direct purchaser, eligible direct dealer, and eligible licensee purchaser who did not receive a cash settlement check as provided in Subparts I and J, and who returned to respondent a signed Attachment D form which was received by respondent on or before the date 355 days after the date of service of this Order. Each cash settlement shall be in the amount determined as provided in Subpart D, subsections (1) through (3) and Subpart E, subsections (1) and (2) of this Part, and shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector.

Provided that if the aggregate dollar value of all cash settlements as determined above exceeds \$25,000 plus any undistributed portion of the \$375,000 and \$150,000 funds provided in Subparts G and H of this Part, then each cash settlement shall be prorated by multiplying the cash settlement amount by the ratio of \$25,000 plus any undistributed portion of the \$375,000 and

\$150,000 funds to the aggregate value of all cash settlements as determined above.

O. Send by first-class mail a copy of the letter attached to this Order as Attachment G, incorporated herein by reference, with the appropriate box checked, to each person who is determined to be ineligible for a cash settlement under the provisions of this Order or whose Attachment D form was not received by respondent on or before the date 355 days after the date of service of this Order. The copy of Attachment G shall be sent within ten days after the determination of ineligibility is made or the Attachment D form is received by respondent.

P. Use all reasonable efforts to determine the correct and complete name and last known address of a purchaser or dealer in each instance where the records searched by respondent do not provide correct or complete information, and use all reasonable efforts to determine the correct eligibility and status of a person in each instance where the returned Attachment B form contains insufficient, ambiguous, or conflicting information. Such efforts shall include, but not be limited to, searches of respondent's records and requests for additional information by mail or telephone calls.

Q. In each instance where a letter or notice package provided for by Part II of this Order is returned by the Post Office undelivered and respondent is provided with a corrected address, remail the letter or notice package to the corrected address within five days after respondent's receipt of the corrected address from the Post Office.

R. Establish and maintain a telephone number which persons may call to receive information and materials relating to the programs provided in this Part and in Part III of this Order.

Part III

It is further ordered that respondent shall:

A. Within 45 days after the date of service of this Order, determine the names and original addresses of all persons who purchased Solar Furnaces or solar collectors, including purchasers, dealers, distributors of respondent, licensees of International Solarthermics Corporation, and distributors of licensees of International Solarthermics Corporation. In making these determinations, respondent shall search all relevant records in its possession, custody, or control.

B. Send by third-class mail, within 45 days after the date of service of this Order, to the original address of each person who purchased a Solar Furnace

or solar collector identified by respondent pursuant to Subpart A of this Part or identified by the Federal Trade Commission or its staff, a warning package consisting of: (i) A copy of the letter attached to this Order as Attachment H, incorporated herein by reference; (ii) two copies of the sign attached to this Order as Attachment I, incorporated herein by reference, consisting of a white self-adhesive label of latex impregnated material, no smaller than four inches by six inches, with the first line printed in red in thirty-six point type and the second line printed in red in twenty-four point type; and (iii) an envelope containing the materials described in subsections (i) and (ii) bearing the legend "IMPORTANT SOLAR EQUIPMENT WARNING" and addressed as follows: "(Name of Person) or Current Resident."

Respondent shall also send by first-class mail a warning package to each person who, within 365 days after the date of service of this Order, contacts respondent or about whom respondent receives information indicating that the person may be a current owner of a Solar Furnace or solar collector, and who has not received a warning package or who received a warning package but subsequently lost it. The warning package shall be sent within five days after respondent's receipt of the contact or information.

Provided that respondent shall substitute on the envelope containing copies of Attachments H and I the name of the current owner of the Solar Furnace or solar collector for the name of the person who purchased the Solar Furnace or solar collector, if respondent's records show that the person who purchased the Solar Furnace or solar collector no longer owns the unit and if respondent's records contain the name of the current owner.

Provided that respondent may refrain from sending a warning package to any person identified pursuant to Subpart A of this Part who respondent's records conclusively show is not a current owner of a Solar Furnace or solar collector.

C. Use all reasonable efforts to determine the correct and complete name and original address of a person who purchased or owns a Solar Furnace or solar collector in each instance where the records searched by respondent do not provide correct or complete information. Such efforts shall include, but not be limited to, searches of respondent's records and requests for additional information by mail or telephone calls.

Part IV

It is further ordered that:

A. Respondent shall maintain documents and records demonstrating the manner and form of respondent's compliance with Part I of this Order, including:

(1) Documentation in support of and upon which respondent relies in making any representation concerning the reliability, durability or performance of solar energy equipment, and any other documentation which contradicts, qualifies, or otherwise calls into question any representation concerning the reliability, durability or performance of solar energy equipment, included in advertising or sales promotional materials disseminated by respondent or by any officer, representative, agent, employee, subsidiary, or division of respondent;

(2) Documentation or written results of tests performed in connection with carrying out the provisions of Part I, Subpart A and B of this Order.

Such documentation shall be retained by respondent for a period of three (3) years from the date such advertising or sales promotional materials were last disseminated, and may be inspected by the Commission or its staff upon reasonable notice.

B. Respondent shall maintain documents and records demonstrating the manner and form of respondent's compliance with Parts II and III of this Order, including but not limited to those reflecting:

(1) Efforts made and actions taken by respondent to identify, locate, contact, and provide cash settlements to persons as provided in Part II of this Order;

(2) Efforts made and actions taken by respondent to identify, locate and mail notices to addresses and persons as provided in Part III of this Order;

(3) The names, original addresses, and last known addresses of all persons required to be determined as provided in Part II, Subparts A and P and Part III, Subparts A and C of this Order;

(4) The name and address of each person to whom a notice package is sent as provided in Part II, Subparts B and I of this Order;

(5) The name and address of each person who is determined to be eligible and each person who is determined to be ineligible for a cash settlement as provided in Part II, Subparts B, C, I and J of this Order;

(6) The name and address of each person who receives a cash settlement as provided in Part II, Subparts G, H and N of this Order, and the amount of each refund;

(7) The Attachment B and Attachment D forms returned to respondent as provided in Part II, Subparts C, G, H, J and N of this Order;

(8) Any information used in making determinations of eligibility and ineligibility as provided in Part II of this Order;

(9) The name and address of each person who disputes a determination of ineligibility or cash settlement amount made as provided in Part II of this Order, the nature of such person's dispute, and the resolution of the dispute;

(10) All written communications, and a log of all telephonic communications which includes a summary of the communications, between respondent and any person relating to the programs provided in Parts II and III of this Order;

(11) The name and address of each person to whom an Attachment H letter is sent as provided in Part III of this Order.

Such documents and records shall be maintained by respondent for a period of three (3) years from the date of the creation of the document or record, and may be inspected by the Commission or its staff upon reasonable notice.

Part V

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating divisions, to its successors and assigns, and to each of its officers, agents, representatives, or employees who have sales, marketing, advertising, servicing, warranty, or policy responsibilities with respect to the subject matter of this Order.

Part VI

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in respondent such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

Part VII

It is further ordered that respondent shall, within sixty (60) days after the date of service of this Order, and within eighteen months after the date of service of this Order, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form in which it has complied with this Order.

Issued: February 17, 1983.

By the Commission.

Benjamin I. Berman,
Acting Secretary.

Attachment A

[Champion letterhead]

[Date]

Dear _____: Our records show that you may have purchased a Solar Furnace or solar collector manufactured by Champion Home Builders Co. Champion has recently started a program to offer cash settlements of at least several hundred dollars each to certain people who purchased solar energy equipment sold under the "Champion" and other brand names. You may be eligible for a cash settlement under this program. Please read this letter and follow the steps listed below.

This program is part of an agreement between the Federal Trade Commission (FTC) and Champion. The FTC had alleged that Champion's Solar Furnaces and solar collectors did not provide as much heat as represented and required a great deal of maintenance and repairs. Although Champion does not admit this is true, we have agreed to offer these cash settlements.

How To Apply

In order to apply for a cash settlement, you must do the following:

(1) Fill out the enclosed questionnaire completely. This will be used to determine your eligibility for the cash settlement.
(2) If you owned more than one Solar Furnace or solar collector system, make extra copies of the questionnaire and fill out one for each Solar Furnace or solar collector system you owned.

(3) Return the completed questionnaire to us in the enclosed envelope. You must mail the questionnaire back to us by [return date] to make sure you are considered for the full settlement for which you may be eligible. If you are eligible for a cash settlement but we do not receive your completed questionnaire in time, you may get a lesser amount or you may get nothing.

Even if you no longer own the Solar Furnace or solar collector, or you were a dealer, or you bought a non-Champion brand, you may still be eligible for a cash settlement. Please fill out the questionnaire so that you may be considered.

How To Obtain Your Cash Settlement

Once we receive your completed questionnaire, we will determine if you are eligible for a cash settlement and let you know in writing within the next three months. If you are eligible, we will also tell you how much the settlement will be. Please let us know if you change your address in the next several months, so we can contact you again.

You will not have to return your Solar Furnace or solar collector if you decide to take the cash settlement. However you will have to sign a waiver form which we will send you. By signing the waiver you will give up any rights you may have remaining under a warranty if you got a warranty from Champion. You will also give up your right to sue Champion for any existing claims you

may have relating to your Solar Furnace or solar collector.

If you have any questions about this program, please contact: Champion Solar Program, c/o Champion Home Builders Co., 5573 E. North Street, Dryden, Michigan 48428, [Telephone number].

Remember: You must mail the completed questionnaire to us by [return date]. Also, please remember to let us know if you change your address.

Sincerely yours,
Champion Home Builders Co.
Enclosures.

Attachment B

Questionnaire

Please print your name, address, and telephone number. Then, answer the questions below by putting an "X" in the proper box.

Fill out a separate questionnaire form for each Solar Furnace or solar collector system you have owned. If you were a dealer, fill out a questionnaire form for each Solar Furnace or solar collector system you had for your own use as heating equipment or as a demonstrator.

Name: _____
Address: _____
Zip Code: _____
Telephone: _____

1. Have you or your family ever bought a Solar Furnace or solar collector for your own use as heating equipment or as a demonstrator? (Answer yes if you bought the unit by itself or with your home.)

☐ Yes ☐ No

If yes, from whom did you buy it?

Note.—If you answered yes, please answer the following questions. If you answered no, please skip to Question 11.

2. Did you buy the Solar Furnace or solar collector as new?

☐ Yes ☐ No

3. What is the brand name of the Solar Furnace or solar collector?

☐ Champion ☐ Other (please specify): _____

4. If you own or owned a Solar Furnace, does the outside surface look like:

☐ Aluminum or metal with a brown wood-grain pattern?
☐ Wood, fiberglass or other non-metallic material?
☐ Other (please specify): _____

5. What is the serial number of your Solar Furnace or solar collector?

Note.—The serial number should appear on your warranty registration form. If you can't find your serial number, leave this answer blank.

6. Do you still own the Solar Furnace or solar collector?

☐ Yes ☐ No

7. If the answer to question 6 is no, did you:
☐ Sell the unit (either by itself or with your home)?

☐ Dispose of the unit without selling it or receiving any compensation?

Note.—If you sold the unit to someone else, please provide the name and address of the buyer:

8. Were you ever a dealer for Solar Furnaces?

☐ Yes ☐ No (please specify brand name of equipment you sold):

Note.—If you answered yes, please answer the following questions. If you answered no, please skip to Question 11.

9. Did you buy the Solar Furnace or solar collector described above before you became a Solar Furnace dealer?

☐ Yes ☐ No

10. How many Solar Furnaces and Champion solar collector systems did you sell? (Do not count any units you bought for your own use and later sold second-hand.)

☐ None ☐ One or two ☐ More than two

11. Do you know anyone else who bought a Solar Furnace or Champion solar collector? If so, please provide their names and addresses:

This completes our questions. If you have a copy of your bill of sale, warranty form, or other evidence of purchase, please enclose it with this form in the envelope we have provided. If you do not have anything like this, please return the form anyway. Evidence of purchase is *not* required for you to be eligible for a cash settlement, but will help us in reviewing your eligibility.

Remember: You must fill out this form and mail it to us by [return date] to be eligible for a full cash settlement.

Attachment C

[Champion letterhead]

[Date]

Dear —: As part of an agreement with the Federal Trade Commission (FTC), Champion Home Builders Co. is offering cash settlements to certain people who purchased Solar Furnaces and solar collectors manufactured by Champion. We have reviewed our records and the questionnaire that you returned and have determined that you are eligible for a cash settlement under this program.

Amount of Your Cash Settlement

The tentative amount of your cash settlement is [tentative cash settlement amount]. This amount was determined based on the number of Solar Furnaces or solar collectors you purchased and the circumstances under which you purchased them. The amount of money you will actually receive may increase slightly if someone who is eligible decides not to accept a settlement, but this amount will *not* be lowered.

How To Obtain Your Cash Settlement

In order to obtain your cash settlement, you must sign and return the enclosed form

entitled "Notice of Acceptance of Cash Settlement and Waiver of Claims." Please read this form and make your decision carefully. By signing and returning this form and accepting your cash settlement, you give up any rights you may have remaining under a warranty if you got a warranty from Champion. You also give up your right to sue Champion for any existing claims you may have relating to your Solar Furnace or solar collector.

If you decide to accept the cash settlement and give up these rights, please sign the form and return it to us in the enclosed envelope. You *must* mail the signed form back to us by [return date] to make certain you receive your settlement. We will then mail you a check within the next two to four months. If we do not receive your signed form in time, you may get a smaller cash settlement or you may get nothing.

If you decide not to accept the cash settlement, please do not return the form. You will not give up any rights and you will not receive any money.

If you have any questions about this program, or if you change your address, please contact: Champion Solar Program, c/o Champion Home Builders Co., 5573 E. North Street, Dryden, Michigan 48428, [Telephone number].

Remember: You must mail the signed waiver form to us by [return date].

Sincerely yours,

Champion Home Builders Co.

Enclosures.

Attachment D

Notice of Acceptance of Cash Settlement and Waiver of Claims

I hereby accept Champion's offer of a cash settlement, as contained in its letter of [date of Attachment C or F letter], in an amount not less than [tentative cash settlement amount].

In consideration of this cash settlement, I hereby release and discharge Champion Home Builders Co., its successors and assigns, and its directors, officers, agents, representatives, and employees, and its divisions and other subsidiaries, from any and all claims of every name and nature relating to solar energy equipment manufactured and sold by Champion Home Builders Co., including any claims I may have under any express or implied warranty, including any warranty of merchantability or fitness for particular use, from the beginning of time to the date of this instrument and forever after, except any claims for future personal injury or future property damage relating to the solar energy equipment.

(Date) _____
(Signature) _____
(Name) _____
(Address) _____

(City, State and Zip Code)

Remember: You must sign this form and mail it to us by [return date].

Attachment E

[Champion letterhead]

[Date]

Dear —: Our records show that you may have purchased a Solar Furnace or solar

collector manufactured by Champion Home Builders Co. Champion has recently started a program to offer cash settlements of at least several hundred dollars each to certain people who purchased solar energy equipment sold under the "Champion" and other brand names. You may be eligible for a cash settlement under this program. Please read this letter and follow the steps listed below.

This program is part of an agreement between the Federal Trade Commission (FTC) and Champion. The FTC had alleged that Champion's Solar Furnaces and solar collectors did not provide as much heat as represented and required a great deal of maintenance and repairs. Although Champion does not admit this is true, we have agreed to offer these cash settlements.

How To Apply

In order to apply for a cash settlement, you *must* do the following:

(1) Fill out the enclosed questionnaire completely. This will be used to determine your eligibility for the cash settlement.

(2) If you owned more than one Solar Furnace or solar collector system, make extra copies of the questionnaire and fill out one for each Solar Furnace or solar collector system you owned.

(3) Return the completed questionnaire to us in the enclosed envelope. You must mail the questionnaire back to us by [return date] to make sure you are considered for the full cash settlement for which you may be eligible. If you are eligible for a cash settlement but we do not receive your completed questionnaire in time, you will receive no cash settlement.

Even if you no longer own the Solar Furnace or solar collector, or you were a dealer, or you bought a non-Champion brand, you may still be eligible for a cash settlement. Please fill out the questionnaire so that you may be considered.

How To Obtain Your Cash Settlement

Once we receive your completed questionnaire, we will determine if you are eligible for a cash settlement and let you know in writing within the next several months. If you are eligible, we will also tell you how much the settlement will be. Please let us know if you change your address in the next several months, so we can contact you again.

You will *not* have to return your Solar Furnace or solar collector if you decide to take the cash settlement. However, you *will* have to sign a waiver form which we will send you. By signing the waiver you will give up any rights you may have remaining under a warranty if you got a warranty from Champion. You will also give up your right to sue Champion for any existing claims you may have relating to your Solar Furnace or solar collector.

If you have any questions about this program, please contact: Champion Solar Program, c/o Champion Home Builders Co., 5573 E. North Street, Dryden, Michigan 48428, [Telephone number].

Remember: You must mail the completed questionnaire to us by [return date]. Also,

please remember to let us know if you change your address.

Sincerely yours,
Champion Home Builders Co.
Enclosures.

Attachment F

[Champion letterhead]

[Date]

Dear —: As part of an agreement with the Federal Trade Commission, Champion Home Builders Co. is offering cash settlements to certain people who purchased Solar Furnaces and solar collectors manufactured by Champion. Some time ago, we sent you a letter notifying you of your eligibility for a cash settlement under this program. We also sent you a form to sign in order to accept your cash settlement.

We have received back your signed acceptance form. Unfortunately, we did not receive it in time to include you in the first group of people eligible for cash settlements. For that reason, the amount of the cash settlement you can receive has changed. We are sending you this letter to notify you of the change in your cash settlement, and to obtain your approval of the new amount.

Amount of Your Cash Settlement

The tentative amount of your cash settlement is now [tentative cash settlement amount]. The amount of money you will actually receive may increase slightly if someone who is eligible decides not to accept a settlement, but this amount will not be lowered.

How to Obtain Your Cash Settlement

In order to obtain your cash settlement, you must sign and return the enclosed form entitled "Notice of Acceptance of Cash Settlement and Waiver of Claims." You must do this even though you previously signed and returned a form.

Please read this form and make your decision carefully. By signing and returning this form and accepting your cash settlement, you give up any rights you may have remaining under a warranty if you got a warranty from Champion. You also give up your right to sue Champion for any existing claims you may have relating to your Solar Furnace or solar collector.

If you decide to accept the cash settlement and give up these rights, please sign the form and return it to us in the enclosed envelope. You must mail the signed form back to us by [return date] to make certain you receive your settlement. We will then mail you a check within the next two months. If we do not receive your signed form in time, you will receive no cash settlement.

If you decide not to accept the cash settlement, please do not return the form. You will not give up any rights and you will not receive any money.

If you have any questions about this program, or if you change your address, please contact: Champion Solar Program, c/o Champion Home Builders Co., 5573 E. North Street, Dryden, Michigan 48428. [Telephone number].

Remember: You must mail the signed waiver form to us by [return date].

Sincerely,
Champion Home Builders Co.
Enclosures.

Attachment G

[Champion letterhead]

[Date]

Dear —: As part of an agreement with the Federal Trade Commission (FTC), Champion Home Builders Co. is offering cash settlements to certain people who purchased Solar Furnaces and solar collectors manufactured by Champion. We have reviewed our records and the questionnaire that you returned and have determined that you are *not eligible* for this program, for the following reason:

- ☐ Your Solar Furnace or solar collector was not manufactured by Champion.
- ☐ You are not the original purchaser.
- ☐ You were a Champion dealer and sold three or more Solar Furnaces or solar collectors.
- ☐ You were a dealer of an International Solarthermics Corporation licensee and sold one or more Solar Furnaces or solar collectors.
- ☐ You previously received a refund or monetary award from Champion.
- ☐ Your information was received after the program had ended.
- ☐ Other: _____

If you believe that our determination is incorrect, please contact: Champion Solar Program, c/o Champion Home Builders Co., 5573 E. North Street, Dryden, Michigan 48428. [Telephone number].

For a copy of the FTC agreement, write: Federal Trade Commission, Public Reference Branch, Room 130, Washington, D.C. 20580.

We regret that we cannot be of assistance to you.

Sincerely yours,
Champion Home Builders Co.
Enclosures.

Attachment H

[Champion letterhead]

[Date]

Dear Sir/Madam: Our records indicate that you may own solar energy equipment manufactured by Champion Home Builders Co. As a result, we are sending you this important notice about your equipment.

IMPORTANT WARNING

Your Champion solar equipment contains wood and other flammable materials. Federal Government Agencies have recently expressed concern that wood in solar collectors may ignite when exposed to excessive heat over a long period of time. Although we do not expect a fire would occur under normal operating conditions, we recommend that these precautionary steps be taken.

1. CLOSE THE REFLECTOR SHIELD WHEN YOUR SOLAR EQUIPMENT IS NOT IN USE

Always cover the collector when the unit is not operating to prevent build-up of excessive

heat. Close the reflector shield to cover the collector during months you are not using your equipment. The reflector shield should also be closed if a motor or controller stops working, or if you have a power outage. If you do not have a reflector shield, use a tarpaulin or similar material to cover the collector.

2. NEVER SMOKE OR USE AN OPEN FLAME NEAR THE EQUIPMENT OR DUCTWORK

Your Champion solar equipment and ductwork contain organic materials such as wood and polyurethane foam which can release toxic smoke if ignited. Therefore, you should never smoke or use an open flame, such as a butane torch, near the equipment or ductwork. The two warning labels enclosed with this letter should be glued to the outside of the Solar Furnace at the motor maintenance opening, and to the exposed ductwork inside your house.

3. INSTALL A SMOKE DETECTOR

We believe that all homes should be equipped with smoke detectors. If you don't already have one, you should consider purchasing and installing a smoke detector in your home.

If you have any questions about this notice, you may call us at [telephone number].

Sincerely,
Champion Home Builders Co.
Enclosures.

Attachment I

— WARNING —

Combustible Materials
Do not expose to open flames

[FR Doc. 83-6159 Filed 3-29-83; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-2707]

Morton Thiokol, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on July 21, 1975 (40 FR 40149). The modified order eases certain restrictions concerning the advertising of Lite Salt; gives the company more flexibility when making disclosures in advertising; and requires

that Lite Salt Labels state that it is "Not To Be Used By Persons On Sodium Or Potassium Restricted Diets Unless Approved By A Physician."

DATES: Consent Order issued July 21, 1975. Modifying Order issued February 28, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/PC, Connie Vecellio, Washington, D.C. 20580. (202) 376-3465.

SUPPLEMENTARY INFORMATION: In the Matter of Morton Thiokol, Inc., et al. Codification appearing at 40 FR 40149 remains unchanged.

List of Subjects in 16 CFR Part 13

Advertising, Salt.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Order Reopening The Proceeding And Modifying Cease And Desist Order is as follows:

In the matter of Morton Thiokol, Inc., et al., Docket No. C-2707.

Order Reopening the Proceeding and Modifying Cease and Desist Order

On July 23, 1982, Morton-Norwich Products, Inc.¹ and Needham, Harper & Steers Advertising, Inc., respondents in the above-captioned matter, filed a petition pursuant to Rule 2.51 of the Commission's Rules of Practice to reopen the proceeding and modify the consent order entered on July 21, 1975.

The consent order involves Morton Lite Salt® Mixture (Lite Salt)² a blend of equal amounts of sodium chloride and potassium chloride, or any product of similar composition. Petitioners marketed Lite Salt for people who desire to or should limit their sodium intake. The order prohibits claims that medical research has established a connection between sodium intake and high blood pressure or water retention, and that a reduction in sodium intake would promote or maintain good health. The Complaint charged that these claims had not been established to the satisfaction of the scientific community. In addition, the order requires a warning in all Lite Salt advertisements that the product is "Not To Be Used By Persons On Sodium Or Potassium Restricted Diets Unless Approved By A Physician."

The petition of July 23, 1982, requests five changes in the consent order, which it summarized as follows:

(1) a change in the Consent Order's preamble to make clear that the order's advertising and labeling restrictions apply only to Morton's consumer-oriented promotional efforts and sales, rather than to the industrial food processing trade;

(2) the inclusion of a requirement that packages be labeled, "Not To Be Used By Persons On Sodium Or Potassium Restricted Diets Unless Approved By A Physician";

(3) a change in the advertising disclosure provisions which allows Morton the option of using in its advertising the cautionary statement "Not To Be Used By Persons On Sodium Or Potassium Restricted Diets Unless Approved By A Physician" or the statement "Read Label, Including Warnings";

(4) a change in the advertising disclosure provisions which removes the phrase "clear and conspicuous" and substitutes more specific disclosure requirements for television, radio, and print advertisements; and

(5) a change in the second proscriptive paragraph of the consent order to make clear that the order does not prohibit Morton from stating accurately the opinions of medical researchers and doctors concerning the effects of sodium consumption, provided that such representations are based on reliable and competent scientific evidence.

The petition included a Proposed Order that petitioners requested the Commission to substitute for the original order.

The change requested in the preamble language would result in the order applying only to the advertising and sale of Lite Salt or any product of similar composition "in a package intended to be purchased and used by consumers (e.g., the 11 ounce container sold in grocery stores) and not to the advertising and sale of the product in institutional packages (e.g., 80 pound sacks sold to food processors)." Morton did not market the product in institutional size sacks in 1975.

The Commission agrees that this change is justified. As petitioners point out,

a food processor using the Product as an ingredient in its product would be sufficiently sophisticated to easily recognize that it should not be used in preparing a sodium-free or a potassium-free food. Moreover, food manufacturers are required to adhere to food labeling regulations as promulgated by the FDA, including regulations regarding the disclosure of ingredients in the order of predominance.

Petition at 17.

The second suggested change would add the following proscriptive paragraph to the modified order:

1. Failing to disclose on the label of such container, in the following words, or words of similar importance, that such product is "Not To Be Used By Persons On Sodium or Potassium Restricted Diets Unless Approved By A Physician." Such disclosure must be enclosed within a boxed outline and printed in type size that can clearly be read.

This provision is desirable because it requires, with minimal burden, the dissemination to interested consumers of important health information. Petitioners now include this warning on the product pursuant to an agreement reached with the Food and Drug Administration in 1974. Including this provision in the order gives the Commission clear authority to enforce the warning, and to ensure its prominence.

The third requested modification is that petitioners be allowed in advertising to substitute the warning "Read Label, Including Warnings" for the more extensive warning that the product is "Not To Be Used By Persons On Sodium or Potassium Restricted Diets Unless Approved By A Physician." Petitioners argue that so long as the more extensive warning appears in labeling, a requirement that it also appear in advertising is unnecessarily burdensome.

The Commission recognizes that all mandatory disclosures impose costs, occupying advertising space and competing with other useful information in advertisements—such as the benefits of the product—for consumers' attention. Consequently, disclosure requirements serve the public interest only if their benefits outweigh their costs and they are no more burdensome than necessary to convey the intended message. The Commission has concluded that if advertising for Lite Salt discloses that the product contains sodium, more extensive warnings are not necessary in advertising.³ The sodium content disclosure should be sufficient to alert consumers on sodium restricted diets to read the label of the product. There they will find a statement of the amount of sodium in the product, as well as the now required warning not to use the product without physician approval. The Commission does not believe it has a sufficient basis

³ The Commission does not, however, accept petitioners' argument that it should alter the health warnings because of alleged competitive disadvantages they impose.

¹ Morton-Norwich, Inc. changed its name to Morton Thiokol, Inc., after it filed the petition.

² Petitioners requested a change in the preamble language substituting "Morton Lite Salt® Mixture" for "Morton Lite Salt" to protect their trademark. The Commission has no objection to the change.

to require an advertising warning for this product directed only to persons on potassium restricted diets.

Accordingly, the Commission has modified the advertising disclosure requirement, with petitioners' agreement, to allow a disclosure of sodium content in lieu of the more extensive warning originally required.

Petitioners next ask the Commission to change the Order's disclosure guidelines. The current Order requires that disclosures be "clear and conspicuous." Petitioners propose alternative definitions setting forth criteria for television, radio, and print advertising. Petitioners have agreed to modify the proposed television disclosure standards to require audio disclosure. With this change, the Commission believes these standards will ensure that the required information is adequately communicated.

The final modification concerns the order provisions prohibiting petitioners from representing that medical researchers or doctors have established (a) a connection between sodium intake and high blood pressure or water retention, or (b) that reducing the level of sodium intake will promote or maintain good health. The petition cites extensive evidence indicating that the vast majority of medical and scientific experts in this country are sufficiently certain of a link between sodium consumption and the development of high blood pressure to recommend a reduction in sodium consumption for the general population. This represents a change from the state of medical and scientific opinion in 1975 when the order was issued. At that time, many doctors and researchers were not prepared to take a position on the existence of a link between sodium consumption and the development of high blood pressure, and reduced sodium consumption was not widely recommended for the general public. Because the situation has changed dramatically since 1975, however, the Commission believes the evidence contained in the petition justifies modifying the Order. The evidence indicates, however, that most experts do not believe that the link between sodium consumption and the development of high blood pressure has been conclusively established. Consequently, the Commission has, with petitioners' agreement, modified the Order to allow respondents to make representations about the relationship between sodium consumption and high blood pressure or water retention if they possess a reasonable basis consisting of competent and reliable scientific

documentation supporting the representations.

The modified Order also prohibits claims that Lite Salt is a sodium-free salt substitute or that it is intended for use by persons on sodium or potassium restricted diets unless approved by a physician.

For the foregoing reasons, the Commission believes petitioners have made a satisfactory showing that changes in facts and the public interest require modifying the Order.

It is therefore ordered that the proceeding is hereby reopened and the Decision and Order issued July 21, 1975, in Docket No. C-2707 is hereby modified to read as follows:

Order

It is ordered, That respondent Morton Thiokol, Inc., a corporation, and respondent Needham, Harper & Steers Advertising, Inc., a corporation, their successors and assigns, either jointly or individually, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, of Morton Lite Salt® Mixture or any product of similar composition, packed in a container intended to be sold to, distributed to, or used by consumers, do forthwith cease and desist from:

1. Failing to disclose on the label of such container, in the following words or words of similar import, that such product is "Not To Be Used By Persons On Sodium Or Potassium Restricted Diets Unless Approved By A Physician." Such disclosure must be enclosed within a boxed outline and printed in type size that can clearly be read.

2. Disseminating any advertising for such product packed in such container that fails to disclose: A. The following words, or words of similar import: "Not For Persons On Sodium Or Potassium Restricted Diets Unless Approved By A Physician"; or B. That such product contains sodium. This disclosure may be accomplished satisfactorily by describing such product as a mixture of salt (or sodium chloride) and potassium chloride or as containing one-half (½) the sodium of table salt.

For television advertisements, the required disclosure must be presented in the audio portions of the advertisement. The disclosure must be made in a manner such that it may be heard without undue distracting noise.

For print advertisements, the required disclosure must be of a type size that can clearly be read, and must appear enclosed in a boxed outline or otherwise appear prominently. If a coupon for such product is offered as part of any advertisement, the required disclosure need appear only in the main portion of the advertisement. If such product is advertised in conjunction with other products, the required disclosure need appear as part of or in close proximity to only that portion of the advertisement in which such product appears most prominently.

For radio advertisements, the required disclosure must be made in a manner such that it may be heard without undue distracting noise.

3. Making any representation, directly or indirectly, regarding the relationship between sodium consumption and high blood pressure or water retention unless, at the time the representation is made, respondents have in their possession a reasonable basis consisting of competent and reliable scientific documentation to support such representation.

4. Making any representation, directly or indirectly, that Morton Lite Salt® Mixture is a sodium-free salt substitute.

5. Making any representation, directly or indirectly, that Morton Lite Salt® Mixture is intended for use by persons on sodium or potassium restricted diets, unless the representation is expressly limited to use approved by a physician.

Nothing in this order shall be construed to prohibit respondents from disseminating any advertisement of Morton Lite Salt® Mixture or any product of similar composition, that: A. Indicates that the product contains one-half the sodium of regular salt; or B. Indicates that the product is intended for persons (not including those on sodium or potassium restricted diets) who desire to reduce their intake of salt or sodium.

It is further ordered That respondents shall forthwith distribute a copy of this order to each officer or employee having direct responsibility for either the marketing or advertising of Morton Lite Salt® Mixture.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of any subsidiary, or any other change in the corporation that may affect compliance obligations arising out of the order.

It is further ordered that the foregoing modification shall become effective upon service of this order.

Issued: February 28, 1983.

By direction of the Commission.

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 83-8156 Filed 3-29-83; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6460; 34-19625; 35-22887;
39-811; IC-13109; IA-845]

Approved Information Collections: Current OMB Expiration Dates

AGENCY: Securities and Exchange
Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending Subpart N of Part 200 relating to Commission information collection requirements under the Paperwork Reduction Act to reflect current OMB expiration dates for approved information collections.

EFFECTIVE DATE: March 30, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Fogash, Deputy Executive Director, SEC, 450 Fifth Street NW., Washington, D.C. 20549 (202) 272-2142.

SUPPLEMENTARY INFORMATION: The Commission will amend Subpart N periodically to reflect current information.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of Information, Privacy, Securities.

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart N—Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Nos. and Expiration Dates

Part 200 of 17 CFR Chapter II is amended by changing the OMB control number and expiration date for Regulation A, Forms 1-A, 2-A, 3-A, 4-A, 5-A, 6-A, 7-A, Rule 15b10-6, Rule 17A-4, Rule 17Ad-6, Rule 17f-1(g), Form 4, Form 20-F Part 257, Rule 23c-1, Rule 23c-2, and Rule 204.2; by adding Form F-6, Rule 13e-1, Rule 17Ad-10, Rule 17Ad-11, Rule 17Ad-13, Rule 6c-7, Rule 11a-2, and Form N-1A; by deleting the Questionnaire—Research Forum; and revising certain expiration dates in paragraph (b) of § 200.800 as follows:

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) Display.

Regulation S-X	Part 210	3235-0009	Jan. 31, 1986.
Regulation S-K	Part 229	3235-0071	June 30, 1983.
Regulation A	§§ 230.251 thru 230.264	3235-0286	Feb. 29, 1986.
Form S-6	§ 230.16	3235-0184	Feb. 29, 1986.
Form 1-A	§ 239.90	3235-0286	Feb. 29, 1986.
Form 2-A	§ 239.91	3235-0286	Feb. 29, 1986.
Form 3-A	§ 239.92	3235-0286	Feb. 29, 1986.
Form 4-A	§ 239.93	3235-0286	Feb. 29, 1986.
Form 5-A	§ 239.94	3235-0286	Feb. 29, 1986.
Form 6-A	§ 239.95	3235-0286	Feb. 29, 1986.
Form 7-A	§ 239.96	3235-0286	Feb. 29, 1986.
Rule 12g3-2	§ 240.12g3-2	3235-0119	Jan. 31, 1986.
Rule 13a-4	§ 240.13a-4	3235-0203	Feb. 29, 1986.
Regulation 14A	§§ 240.14a-1 thru 240.14a-12	3235-0059	Sept. 30, 1983.
Schedule 14A	§ 240.14a-101	3235-0059	Sept. 30, 1983.
Schedule 14B	§ 240.14a-102	3235-0059	Sept. 30, 1983.
Rule 15b10-6	§ 240.15b10-6	3235-0297	Sept. 30, 1983.
Rule 17a-3	§ 240.17a-3	3235-0033	Sept. 30, 1983.
Rule 17a-4	§ 240.17a-4	3235-0279	Oct. 31, 1983.
Rule 17a-5	§ 240.17a-5	3235-0123	Feb. 29, 1986.
Rule 17a-6	§ 240.17a-6	3235-0092	Feb. 29, 1986.
Rule 17Ad-4 (b) & (c)	§ 240.17Ad-4 (b) & (c)	3235-0138	Jan. 31, 1986.
Rule 17Ad-5	§ 240.17Ad-5	3235-0291	Sept. 30, 1983.
Rule 17Ad-7	§ 240.17Ad-7	3235-0138	Sept. 30, 1983.
Rule 17f-1(b)	§ 240.17f-1(b)	3235-0032	Feb. 29, 1986.
Rule 17f-1(g)	§ 240.17f-1(g)	3235-0290	Feb. 29, 1986.
Form 4	§ 249.104	3235-0287	Feb. 29, 1986.
Form 20-F	§ 249.220f	3235-0288	Feb. 29, 1984.
Form 10-K	§ 249.310	3235-0063	Feb. 29, 1986.
Form X-17A-5	§ 249.617	3235-0123	Feb. 29, 1986.
	Part 257	3235-0306	Sept. 30, 1983.
Rule 23c-1	§ 270.23c-1	3235-0282	Feb. 29, 1986.
Rule 23c-2	§ 270.23c-2	3235-0282	Feb. 29, 1986.

Form N-5	§ 274.5	3235-0169	Feb. 29, 1986
Form N-1	§ 274.11	3235-0027	Feb. 29, 1986
Form N-8B-2	§ 274.12	3235-0186	Feb. 29, 1986
Rule 204.2	§ 275.204.2	3235-0278	Sept. 30, 1983
Add:			
Form N-1A	§ 239.15A	3235-0307	Sept. 30, 1983
Form F-6	§ 239.16	3235-0202	Jan. 31, 1986
Rule 13e-1	§ 240.13e-1	3235-0264	Feb. 29, 1986
Rule 17Ad-10	§ 240.17Ad(10)	3235-0273	Jan. 31, 1986
Rule 17Ad-11	§ 240.17Ad(11)	3235-0274	Jan. 31, 1986
Rule 17Ad-13	§ 240.17Ad(13)	3235-0275	Jan. 31, 1986
Rule 6c-7	§ 270.6c-7	3235-0276	Jan. 31, 1986
Rule 11a-2	§ 270.11a-2	3235-0272	Jan. 31, 1986
Delete:			
Questionnaire	Research Forum	3235-0271	Jan. 31, 1983

In addition, the following information collection requirements of the Commission which appeared at 47 FR 4985, February 2, 1982, exist as separate documents which are not rules or regulations and therefore are not codified in 17 CFR. The following changes should be made:

Revise:			
Survey	Exchange Sales Value and Volume—R-31	3235-0001	Feb. 29, 1986
Survey	Annual Investment Company Asset Letter	3235-0002	Feb. 29, 1986
Delete:			
Form 4(b)	Implementation of Section 4(b) of the 1933 Act	3235-0097	Nov. 30, 1984
Survey Form R-4a	Private Noninsured Pension Plans	3235-0003	Nov. 30, 1984
Survey Form R-5	Property and Liability Insurance Companies	3235-0004	Nov. 30, 1984
Survey	Rule 146 Utilization	3235-0023	Sept. 30, 1983
Survey	Private Placement Statistics (Monthly)	3235-0144	Nov. 30, 1984
Survey	Private Placement Statistics (Quarterly)	3235-0144	Nov. 30, 1984

The Commission finds that this amendment, concerning the display of the control numbers and expiration dates assigned to information collection requirements of the Commission by the Office of Management and Budget pursuant to the Paperwork Reduction Act, pertains only to procedural matters; it is therefore not subject to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 et seq., requiring advance notice and opportunity for comment. Accordingly, it is effective upon publication in the Federal Register.

(44 U.S.C. 3507(f))

By the Commission.

Dated: March 23, 1983.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-8048 Filed 3-29-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

22 CFR Part 11

[Dept. Reg. 108.831]

Appointment of Members of the Foreign Service; Revised Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: These regulations revise the current policies and procedures governing the appointment of Junior Foreign Service officer career candidates. These regulations supplement and implement the Foreign Service Act of 1980 and update existing regulations.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Frontis B. Wiggins, Board of Examiners, Department of State, Washington, D.C., 20520, (202) 235-9232.

SUPPLEMENTARY INFORMATION: The Department of State is publishing revised regulations to supplement and implement the Foreign Service Act of 1980 (Pub. L. 96-465) relative to the appointment of Junior Foreign Service officer career candidates and to update existing provisions. Proposed regulations were published in the Federal Register on November 4, 1980 (45 FR 73100-73102).

Analysis of Comments. The proposed regulations provided a 25-day period for public comment which ended November 27, 1980. The Department of State received only one public comment relative to the issue of accommodating and reconciling merit considerations and the demands of affirmative action,

now anchored in law. While the Department has revised the proposed text to provide additional clarity, the legal imperative to provide affirmative action programs within the context of the merit system principles of the Foreign Service Act of 1980 remains unchanged.

E.O. 12291, Federal Regulation

The Department of State has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

In addition, this rule relates solely to agency personnel and falls under section 1(a)(3) of E.O. 12291.

List of Subjects in 22 CFR Part 11

Foreign service.

Accordingly, under the authority of sections 206(a) and 301(b) of the Foreign Service Act of 1980 (secs. 206(a) and 301(b), Pub. L. 96-465, 94 Stat. 2079 and 2083 (22 U.S.C. 3926 and 3941)), 22 CFR 11 is amended to read as follows:

PART 11—APPOINTMENT OF MEMBERS OF THE FOREIGN SERVICE

1. The heading for § 11.1 is revised and headings for §§ 11.10, 11.20, and 11.30 are added and reserved to read:

Sec.
11.1 Junior Foreign Service officer career candidate appointments.

11.10 Mid-level Foreign Service officer career candidate appointments. [Reserved]

11.20 Foreign Service specialist career candidate appointments. [Reserved]

11.30 Senior Foreign Service officer career candidate appointments. [Reserved]

2. Section 11.1 is revised to read as follows:

§ 11.1 Junior Foreign Service officer career candidate appointments.

(a) *General considerations.*—(1) *Authority.* Pursuant to sections 302 and 306 of the Foreign Service Act of 1980 (hereinafter referred to as the Act), all Foreign Service officers shall be appointed by the President, by and with the advice and consent of the Senate. All appointments shall be made to a class and not to a particular post. No person shall be eligible for appointment as a Foreign Service officer unless that person is a citizen of the United States. Such appointment is initially to career candidate status with subsequent commissioning to career status governed by the provisions of Volume 3 (Personnel), Foreign Affairs Manual, section 570. In accordance with section 102(b) of the Act, all references in these regulations to Foreign Service officers shall, with respect to the United States Information Agency, be deemed to refer to Foreign Service information officers.

(2) *Veterans' preference.* Pursuant to section 301 of the Act, and notwithstanding the provisions of section 3320 of title 5 of the United States Code, the fact that an applicant is a veteran or disabled veteran, as defined in section 2108 (3A), (3B), or (3C) of such title, shall be considered as an affirmative factor in the selection of candidates for appointment as Foreign Service officer career candidates.

(3) *Policy.* Appointment as a Junior Foreign Service officer Career Candidate of class 6, 5, or 4, is governed by these regulations. Successful applicants will be appointed as Career Candidates for a period not to exceed 5

years. Under precepts of the Commissioning and Tenure Board, Career Candidates may be granted tenure and converted to career Foreign Service officer status. Those who are not granted tenure prior to the expiration of their Career Candidate appointments will be separated from the Career Candidate program no later than the expiration date of their appointments. Separated candidates who originally were employees of a department or agency will be entitled to reemployment rights in their former department or agency in accordance with section 310 of the Act.

(b) *Written examination.* The following regulations apply to the written examination.

(1) *Purpose.* The written examination is designed to enable the Board of Examiners for the Foreign Service to test the applicant's intelligence, breadth and quality of knowledge, and understanding in relation to the requirements of Foreign Service work.

(2) *Eligibility.* Prior to each written examination, the Board of Examiners will establish a closing date for the receipt of applications for designation to take the examination. No person will be designated to take the examination who has not, as of that closing date, filed an application with the Board. To be designated to take the written examination, an applicant, as of the date of the examination, must be a citizen of the United States and at least 20 years of age.

(3) *When and where given.* The written examination will be given periodically, normally at least once a year, in designated cities in the United States and at Foreign Service posts, on dates established by the Board of Examiners and publicly announced.

(4) *Grading.* The several parts of the written examination will be weighted and graded according to standards established by the Board of Examiners. The number of candidates who pass each written examination will be governed by the projected hiring needs of the participating foreign affairs departments and agencies in subsequent years.

(c) *Oral examination.* The following regulations apply to the oral examination.

(1) *Purpose.* The oral examination is designed to enable the Board of Examiners for the Foreign Service to test the candidate's competence to perform the work of a Foreign Service officer at home and abroad, potential for growth in the Foreign Service, and suitability to serve as a representative of the United States abroad. The oral examination for the Junior Career Candidate Program

will consist of an assessment procedure publicly announced by the Board of Examiners and hereinafter referred to as the oral examination.

(2) *Eligibility.*—(i) *Through written examination.* (a) Candidates whose weighted score on the written examination is at or above the passing level set by the Board of Examiners will be eligible for selection to take the oral examination. All eligible candidates normally will be invited to take the oral examination.

(B) Should the total number of eligible candidates substantially exceed the projected hiring needs of the Foreign Service, the Board of Examiners may establish and publicly announce a higher written examination score than the passing level as the basis for selection to take the oral examination.

(C) The Board of Examiners may authorize special consideration to be given in the selection of candidates, from among those eligible, for the purpose of meeting language requirements, Affirmative Action goals, or for other purposes which the Board with the concurrence of the prospective hiring agencies may from time to time approve and publicly announce.

(D) The nature and applicability of all criteria utilized to select eligible candidates to take the oral examination will be developed by the Board of Examiners in consultation with the prospective hiring agencies and publicly announced in advance of each examination by the Board.

(E) Candidates who are selected to take the oral examination will be notified of the period of time after the date of the written examination, as determined by the Board of Examiners, within which the oral examination must be conducted. That period will normally be 1 year, but it may be extended or shortened in special circumstances by the Board. The candidacy of anyone whose candidacy has not been extended by the Board, and who has not again passed the written examination in the meantime, will be terminated 2 years after the end of the month in which the written examination was held. Time spent outside the United States and its territories, for reasons acceptable to the Board of Examiners, will not be counted against this 2-year period. The candidacy of anyone for whom the 2-year period is extended by the Board because of being abroad will be terminated automatically if the candidate fails to appear for the oral examination within 3 months after first returning to the United States. If a candidate fails to appear for the oral examination on an agreed date within

the period of eligibility without an excuse acceptable to the Board, the candidacy will automatically terminate.

(ii) *Through affirmative action.* Members of the minority groups specified by the Equal Opportunity Act of 1972, as amended, may be selected by the Board of Examiners for admission to the oral examination in accordance with the Affirmative Action Programs of the participating departments and agencies. Such candidates must be at least 21 years of age, citizens of the United States, and holders of at least a bachelor's degree from an accredited college or university. Affirmative Action Program applicants will be evaluated on a highly competitive basis, in accordance with criteria established by the Board in conjunction with the participating departments and agencies and publicly announced, to determine those to be selected for the oral examination.

(iii) *Through the mustang program.* (A) Employees of the Department of State in classes FS-9 through FS-4 and grades GS-1 through GS-12 who are at least 21 years of age and who have at least 3 years of service with the Department may be selected by the Board of Examiners for admission to the oral examination for the Junior Career Candidate Program in accordance with the Mustang Program of the Department. Such Mustang candidates must: (1) Complete successfully an appropriate Foreign Service Institute-sponsored or approved university or correspondence course relevant to officer-level responsibility in the chosen Foreign Service field of specialization; (2) submit an autobiography of approximately 1000 words; and (3) be recommended by a Qualifications Evaluation Panel of the Board of Examiners for selection for the oral examination.

(B) Employees of the Department of State in classes FS-3 and GS-13 and above are eligible for the Mid-Level Career Candidate Program and should apply under that program if they wish to be considered for conversion to Foreign Service officer status (see § 11.10).

(iv) *Through the upward mobility program.* Admission to the oral examination through the Upward Mobility Program of the United States Information Agency is governed by procedures established by that agency.

(3) *When and where given.* The oral examination cycle will be held each year in Washington, D.C., and in selected cities in the United States. If circumstances permit, oral examinations may also be held at selected Foreign Service posts when approved by the Board of Examiners.

(4) *Examining panel.* The oral examination will be given by a panel of deputy examiners approved by the Board of Examiners from a roster of Foreign Service officers; Foreign Service information officers; career officers from the Department of State, the United States Information Agency, and the Department of Commerce; and qualified private citizens who, by prior service as members of departmental or agency Foreign Service selection boards or other appropriate activities, have demonstrated special qualifications to serve as deputy examiners. Service as a deputy examiner shall be limited to a maximum of 5 years, unless a further period is specifically authorized by the Board. Examination panels shall be chaired by a career officer of the Foreign Service. Determinations of duly constituted panels of deputy examiners are final unless modified by specific action of the Board of Examiners.

(5) *Grading.* Candidates taking the oral examination will be graded numerically according to standards established and publicly announced by the Board of Examiners. The candidacy of anyone whose score is at or above the passing level set by the Board will be continued. The candidacy of anyone whose score is below the passing level will be terminated and may not be considered again until the candidate has passed a new written examination. An Affirmative Action, Mustang, or Upward Mobility candidate who fails the oral examination may not be considered again until 1 year after that date.

(d) *Background investigation.* Candidates who pass the oral examination will be eligible for selection by the Board for the background investigation. The background investigation shall be conducted to determine the candidate's suitability for appointment to the Foreign Service. Should the total number of eligible candidates substantially exceed the anticipated needs of the Foreign Service, the Board of Examiners may authorize priorities to be established, on the basis of combined written and oral examination scores and Affirmative Action considerations, for scheduling the background investigation.

(e) *Medical examination.*—(1) *Eligibility.* Candidates who pass the oral examination, and their dependents, will be eligible for selection by the Board of Examiners for the medical examination.

(2) *Purpose.* The medical examination shall be conducted to determine the candidate's physical fitness to perform the duties of a Foreign Service officer on a worldwide basis and, for candidates and dependents, to determine the

presence of any physical, neurological, or mental condition of such a nature as to make it unlikely that they would be able to function on a worldwide basis.

(3) *Conduct.* The medical examination may be conducted by medical officers of the Department of State, the Armed Forces, the Public Health Service, accredited colleges and universities, or by private physicians.

(4) *Determination.* The Medical Director of the Department of State will determine, on the basis of the report of the physician(s) who conducted the medical examination, whether the candidate and the candidate's dependents have met the required medical standards for appointment (see section 680, Volume 3, Foreign Affairs Manual).

(5) *Medical disqualification.* (i) An Employment Review Committee established by the Department of State, when authorized by the candidate, will review the case of any Department of State Foreign Service candidate or dependent who has been denied medical clearance for appointment, and determine by majority vote whether or not the candidate should be appointed despite the medical disqualification. Decisions of the Employment Review Committee are final and are not subject to further appeal by the candidate.

(ii) The United States Information Agency (USIA) maintains a similar review procedure for USIA Foreign Service candidates and dependents who are disqualified medically. Affected candidates may apply to the Director of the Office of Personnel (M/P) of USIA for review of their cases.

(f) *Final review panel.* After the results of the medical examination and background investigation are received, the candidate's entire file will be reviewed and graded by a Final Review Panel, consisting of two or more deputy examiners of the Board of Examiners. Candidates who have completed the examination process; have passed their medical examination, or have obtained Employment Review Committee approval or the equivalent in accordance with the procedures of the other participating agencies; and, on the basis of their background investigation, have been found suitable to represent the United States abroad, will have their names placed on the functional rank-order register(s), or a special register, for the agency or agencies for which they have been found qualified. Thereafter, they will be considered for employment based on the needs of the individual foreign affairs agencies. The candidacy of any candidate who is determined by the Final Review Panel to be unqualified

for appointment shall be terminated and the candidate so informed.

(g) *Certification for appointment.*—(1) *Eligibility.* (i) A candidate will not be certified as eligible for appointment as a Foreign Service Officer Career Candidate of class FS-6 unless that candidate is at least 21 years of age and a citizen of the United States.

(ii) Career Candidate appointments shall be made before the candidate's 60th birthday. Appointments by the United States Information Agency shall be made before the candidate's 58th birthday. The maximum age for appointment under this program is based on the requirement that all career candidates shall be able to: (A) Complete at least two full tours of duty, exclusive of orientation and training, (B) complete the requisite eligibility period for tenure consideration, and (C) complete the requisite eligibility period to receive retirement benefits, prior to reaching the mandatory retirement age of 65 prescribed by the Act.

(iii) A candidate may be certified as eligible for direct appointment to classes FS-5 or FS-4 if the Board of Examiners determines in accordance with published criteria that, in addition to meeting the requirements for class FS-6, the candidate has additional special experience and skills for which there is a need in the Foreign Service.

(iv) Recommended candidates who meet the requirements of this section will be certified for appointment by the Board, in accordance with the needs of the foreign affairs agencies, in the order of their standing on their respective registers.

(2) *Functional rank-order registers.* The Board of Examiners may maintain separate rank-order registers for Career Candidates in administrative, consular, economic, and political functions of the Department of State; for Career Candidates in the information/cultural function of the United States Information Agency; for Career Candidates in the foreign commercial function of the Department of Commerce; and for functions of other participating foreign affairs agencies. Appointments from each functional register will be made in rank order according to the needs of the relevant agency.

(3) *Special programs.* (i) Qualified minority candidates who apply and qualify under the Department of State Affirmative Action Junior Officer Program (AAJOP) may be placed on a separate register and offered appointment from that register to meet Affirmative Action hiring goals established by the Secretary.

(ii) Qualified minority candidates who apply and qualify under the Comprehensive Minority Recruitment and Training Program (COMRAT) of the United States Information Agency may be placed on a separate register and offered appointment from that register in accordance with the Affirmative Action Program established by that agency.

(iii) Mustang and Upward Mobility candidates who are career employees of the Department of State or the United States Information Agency will be certified by the Board of Examiners for direct appointment on an individual basis after satisfactorily completing all aspects of the examination process.

(4) *Postponement of entrance on duty.* Postponement of entrance on duty because of civilian Federal Government service abroad (to a maximum of 2 years of such service), including Peace Corps volunteer service, or required active regular or reserve military service (to a maximum of the limit of such required service), may be authorized by the Board.

(5) *Foreign language requirement.* A candidate may be certified for appointment to classes FS-6, FS-5, or FS-4 without first having passed an examination in a foreign language, but the appointment will be subject to the condition that the newly appointed Career Candidate may not be converted to career Foreign Service officer status unless, within a specified period of time, adequate proficiency in a foreign language is achieved. For limitations on promotion, see section 874, Volume 3, Foreign Affairs Manual.

(h) *Termination of eligibility.*—(1) *Time limit.* Candidates who have qualified but have not been appointed because of lack of openings will be removed from the rank-order register 18 months after the date of placement on the rank-order register. Time spent in civilian Federal Government service abroad (to a maximum of 2 years of such service), including Peace Corps volunteer service, or in required active regular or reserve military service (to a maximum of the limit of such required service), will not be counted as part of the 18-month eligibility period.

(2) *Extension.* The Board of Examiners may extend the eligibility period when such extension is, in its judgment, justified in the interest of the Foreign Service.

(i) *Travel expenses.* The travel and other personal expenses of candidates incurred in connection with the written and oral examinations will not be borne by the Government. However, the participating foreign affairs departments and agencies may issue round-trip invitational travel orders to bring

candidates to Washington, D.C., at Government expense, when it is determined by the agencies that this is necessary in the interest of the Foreign Service.

Dated: March 23, 1983.

Clint A. Lauderdale,
Deputy Assistant Secretary for Personnel.

[FR Doc. 83-6103 Filed 3-29-83; 8:45 am]

BILLING CODE 4710-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 226, 227, 233, 234, 235, 237, 240, 804, 805, 812 and 841

[Docket No. N-82-1172]

Announcement of Effective Date; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of announcement of effective date; correction.

SUMMARY: This document corrects a notice of effective date published on December 6, 1982, (47 FR 54790). The notice inadvertently neglected to announce the effectiveness of Part 234 of the Department of Housing and Urban Development's regulations. The December 6, 1982 document announced the effective date for a single family waiver authority rule published on August 18, 1982, (47 FR 35957).

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10278, 451 7th Street, SW., Washington, D.C. 20410, telephone No. (202) 755-7055. (This is not a toll-free number.)

The following corrections are made to FR Doc. 82-33156 appearing on 54790 in the issue of December 6, 1982:

1. On page 54790, column three, the CFR Part heading is corrected to read, "[24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 226, 227, 233, 234, 235, 237, 240, 804, 805, 812 and 841]".

2. On page 54791, column one, third paragraph, "[24 CFR Parts 203, 204, 213, 220, 221, 222, 226, 227, 233, 235, 237, and 240: Single Family Waiver Authority Final rule published August 18, 1982, (47 FR 35957), Docket No. R-82-952. Effective Date: December 3, 1982" is corrected to read, "24 CFR Parts 203,

204, 213, 220, 221, 222, 228, 227, 233, 234, 235, 237, and 240: Single Family Waiver Authority Final rule published August 18, 1982, [47 FR 35957], Docket No. R-82-952. Effective Date: December 3, 1982".

Dated: March 24, 1983.

Grady J. Norris,
Assistant General Counsel for Regulations.

[FR Doc. 83-0126 Filed 3-29-83; 9:45 am]
BILLING CODE 4210-27-M

24 CFR Part 3280

[Docket No. R-82-1017]

Manufactured Home Construction and Safety Standards

Correction

In FR Doc. 82-29865 beginning on page 49383 in the issue of Monday, November 1, 1982, make the following corrections:

1. On page 49386, the middle column, in § 3280.305(g)(4), the word "Botom" should read "Bottom".

2. On page 49391, the first column, in § 3280.707(d)(1), the ninth and tenth lines, the phrase "loss shall be as described in section," should be removed.

3. On the same page, in the middle column, in the table to § 3280.707(d)(2), under "Recovery efficiency", the percentage should read "75".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7876]

Income Tax; Taxable Years, Beginning After December 31, 1953; Bad Debt Deduction for Thrift Institutions That Join in Filing Consolidated Returns

Correction

In FR Doc. 83-6974, beginning on page 11256, in the issue of Thursday, March 17, 1983, make the following corrections:

1. On page 11256, in the third column, in the first paragraph, in the second line from the bottom, "not follow" should read "follow".

2. On page 11258, in the second column, in § 1.1502-42(e)(1), in the sixth line, "with paragraph" should read "without paragraph".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Interim rule with request for public comment.

SUMMARY: The Commission is adding a new subsection to its paroling policy guidelines, 28 CFR 2.20, to clarify its policy concerning application of the guidelines to probation revocation cases. In probation revocation cases, the Commission will consider the original federal offense and any new criminal conduct on probation (federal or otherwise) in assessing the offense severity except where probation has been revoked on a complex sentence (i.e., a committed sentence of more than six months followed by a probation term). In complex sentence cases, the case will be considered for guideline purposes under the Commission's reparole guidelines, 28 CFR 2.21.

DATES: This interim rule is effective April 4, 1983.

Public comment must be received by May 20, 1983.

ADDRESS: Submit comments to U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Steve D. Johnston, Deputy Chief, Case Operations, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492-5852.

SUPPLEMENTARY INFORMATION: The Commission from time to time is confronted with probation revocation cases involving complex sentences where the sentencing court has imposed a term of probation to follow a term of more than six months imprisonment. This may be done by sentencing the offender to prison on one count and to probation on another count. In the usual case, a sentence involving both imprisonment and probation is imposed pursuant to 18 U.S.C. 3651 under which the term of imprisonment may not exceed six months.

It is the Commission's policy to consider the original federal offense behavior and any new criminal behavior (Federal or otherwise) on probation in assessing offense severity for probation revocation cases in applying the Commission's guidelines, and to give credit toward such guidelines for any time spent in confinement on any offense behavior considered in assessing offense severity. However,

offenders with complex sentences (i.e., committed sentences of more than six months followed by a probation term) have already served a substantial period of imprisonment for their original federal offense. Therefore, the Commission is providing an exception to its above stated policy for these cases. For probation revocation cases with complex sentences, the Commission will not consider the original offense in assessing the offense severity but will consider only the probation violation behavior under the Commission's reparole guidelines, 28 CFR 2.21. The publication of these provisions is intended to clarify the Commission's policy and to provide more equitable treatment of probation violators.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to the provision of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.20(j) is added as follows:

§ 2.20 Paroling policy guidelines; statement of general policy.

(j)(1) In probation revocation cases, the original federal offense behavior and any new criminal conduct on probation (federal or otherwise) is considered in assessing offense severity. Credit is given towards the guidelines for any time spent in confinement on any offense considered in assessing offense severity. Where there is new criminal conduct on probation, the original federal conviction is also counted in the salient factor score.

(2) Exception: where probation has been revoked on a complex sentence [i.e., a committed sentence of more than six months followed by a probation term], the case shall be considered for guideline purposes under § 2.21 as if parole rather than probation had been revoked.

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: March 10, 1983.

Benjamin F. Baer,
Chairman, Parole Commission.

[FR Doc. 83-6102 Filed 3-29-83; 8:45 am]
BILLING CODE 4410-01-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 83-3]

Compulsory License for Cable Systems Inquiry

AGENCY: Copyright Office, Library of Congress.

ACTION: Statement of Views.

SUMMARY: By Notice of Inquiry published in the *Federal Register* of February 11, 1983 (48 FR 6372-6373), the Copyright Office invited public comment on four general questions: substitution for specialty stations, expanded geographic coverage, expanded temporal carriage and ungranted waiver requests. After analyzing the comments received, the Copyright Office reached certain tentative conclusions on specific issues and communicated its views to the interested parties in a letter of opinion dated March 11, 1983. The Office is publishing this Statement of Views to inform the public of the positions taken in its letter of opinion and to address one additional point.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, Telephone: (202) 287-8380.

SUPPLEMENTARY INFORMATION: At a public meeting on October 20, 1982, the Copyright Royalty Tribunal [Tribunal] adopted its final rule in Docket No. 81-2, Cable Television Royalty Fee Adjustment Proceeding.

The Tribunal established a new schedule of royalty rates in light of the repeal by the Federal Communications Commission [FCC] of certain distant signal carriage and syndicated exclusivity restrictions. The text of the Tribunal's amendments to 37 CFR Part 308 were published in the *Federal Register* of Friday, November 19, 1982 (47 FR 52146-52159).

Following the publication of the Tribunal's final rule in the rate adjustment proceeding, the Copyright Office received letters from several cable system operators and their representatives requesting interpretative rulings in connection with the application of the new 3.75% rate in specific instances. To assist the Copyright Office in responding to the various letters of inquiry and requests for interpretative rulings, the Office published a Notice of Inquiry in the *Federal Register* of February 11, 1983 (48 FR 6372-6373) inviting comment on four general issues. Twenty-one comments

were submitted on behalf of cable system operators, program suppliers, sports claimants, and broadcasters. The Office analyzed these comments, the Copyright Act and its legislative history, the CRT rate determination, and certain former FCC regulations to the extent possible, given the wish of cable systems for guidance before March 15, 1983, and reached the conclusion that only a limited response to the questions posed in the Notice of Inquiry was appropriate at this time.

In its letter of opinion dated March 11, 1983, the Copyright Office responded to certain urgent requests from cable system operators for guidance regarding the 3.75% rate increase; however, the views expressed were tentative and did not represent any effort to decide any issues that may be considered by the U.S. Court of Appeals for the District of Columbia Circuit, to whom the Tribunal's rate adjustment decision has been appealed. The Office reiterated its hope that issues regarding interpretation of the Tribunal's new royalty rates would be brought to the attention of the Court, and that the Court would provide guidance.

As stated in its Notice of Inquiry, and recalled in its opinion letter, the Copyright Office does not intend to take any steps to implement the October 20, 1982 rate adjustment pending a final decision by the Court of Appeals; the Office will, however, accept royalty payments at the levels set by the October 20, 1982 rate determination, and will examine the Statements of Account at an appropriate time.

Although the Copyright Office observed in its letter that it understands the expressed wish of cable systems for some guidance regarding the 3.75% rate adjustment, to give the guidance requested at this juncture would require the Copyright Office to interpret the rules of another governmental body at a time when those rules are under appeal in the courts, and before the Office is called upon to take any steps to carry out its responsibilities in collecting royalties due under the CRT's October 20, 1982 rate adjustment. Its response was accordingly limited and is subject to reexamination after a final decision by the Court of Appeals. At that time, the Copyright Office will again consider the comments submitted in response to the Notice of Inquiry, RM 83-3, and may invite additional comments.

As for the specific questions raised in its Notice of Inquiry, the Copyright Office did make the following observations:

1. *Specialty Stations.* Most of the comments concentrated upon the first issue raised in the Notice, suggesting

that the substitutability of nonspecialty independent stations for specialty stations (whether carried or not) constitutes the most important of the four issues posed. It is the view of the Copyright Office that section 801(b)(2)(B) of the Copyright Act contemplates that cable royalty rates shall be adjusted by the Tribunal following any change after April 15, 1976 in the FCC distant signal rules to ensure that "rates for the *additional distant signal equivalents* resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations." (emphasis added).

The argument advanced in cable system comments that specialty stations never carried, even though "permitted", may now be replaced by nonspecialty independent stations and paid for at less than the 3.75% rate is inconsistent with the intent of the Congress that the "additional" DSE's mentioned in section 801(b)(2)(B) of the Act shall be governed by a new rate. No royalties were ever paid for nonexistent DSE's for specialty stations never carried; therefore, carriage now of an additional nonspecialty independent station, whose carriage was not permitted under the FCC's former distant signal rules, presumably represents "additional distant signal equivalents" within the meaning of section 801(b)(2)(B), as to which Congress intended that the Tribunal should establish new reasonable rates. The Tribunal determined that the 3.75% would be reasonable for such additional distant signal equivalents.

A related issue that was not addressed by the Copyright Office in its letter of opinion concerns the carriage of "grandfathered" signals that cable systems were lawfully carrying on March 31, 1972 under former FCC rule § 76.65. The Office has been asked whether such signals should be considered carried pursuant to an individual waiver or "permitted" for purposes of § 308.2(c) of the Tribunal's final rule. In this respect, section 801(b)(2)(B) of the 1976 Act provides that "no adjustment in royalty rates shall be made . . . with respect to any distant signal equivalent or fraction thereof represented by . . . (ii) a television broadcast signal *first carried after April 15, 1976*, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976." (emphasis added). In light of the wording of this section of the Act, it would appear that the exception for

individual waivers would not apply where the signals in question were first carried prior to April 15, 1976. Such signals may be covered by the proviso in section 801(b)(2)(B)(i) concerning substitution for "permitted" signals.

2. *Expanded geographic coverage.* With respect to expanded geographic coverage, the Office makes the observation that any argument that the 3.75% rate does not apply must assume that the particular cable system prior to the FCC rule change has reported all gross receipts from all subscribers in that entire geographic area for the basic service of providing secondary transmissions of primary broadcast transmitters and paid royalties accordingly, even if some subscribers in that same area did not formerly receive the signal.

3. *Expanded temporal carriage.* The Copyright Office is not now prepared to express any views with respect to expanded temporal carriage.

4. *Ungranted waiver requests.* With respect to ungranted waiver requests, the Copyright Office believes that the new 3.75% rate must apply to additional distant signal equivalents resulting from carriage of distant signals not previously carried because of waiver of the FCC's rules had not been obtained for any reason.

List of Subjects in 37 CFR Part 201

Cable television copyright.

Dated: March 17, 1983.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 83-6109 Filed 3-29-83; 6:45 am]

BILLING CODE 1410-02-M

POSTAL RATE COMMISSION

39 CFR Part 3002

[Docket No. RM83-7; Order No. 490]

Order of the Commission Amending Organizational Rules

Issued: March 22, 1983.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: The Postal Rate Commission, pursuant to 39 U.S.C. 3603, is changing its statement of organization. The changes affect §§ 3002.2 through 3002.9 regarding the various offices of the Commission. As the changes deal entirely with internal agency organization, comments have not been solicited. 5 U.S.C. 553(b).

EFFECTIVE DATE: This rule is effective on March 30, 1983.

ADDRESSES: Comments and other correspondence relating to this Notice should be sent to David F. Harris, Secretary of the Commission, 2000 L Street, NW., Washington, D.C. 20268 (telephone: 202/254-3880).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 2000 L Street NW., Washington, D.C. 20268 (telephone: 202/254-3824).

SUPPLEMENTARY INFORMATION: This Rule makes several changes in the Commission's organization, 39 CFR Part 3002. The first change is a minor addition to § 3002.2 to eliminate a gender specific pronoun. The second change places the public information personnel under the Administrative Office.

The third change is a rewrite of § 3002.4. It eliminates the various subdivisions under the Office of the Director of Planning and Operations and replaces that office with the Office of Technical Analysis and Planning.

The fourth revision makes some changes in the Office of Administrative Law Judges (ALJs). The Commission does not now employ ALJs, though it formerly did. However, in the event the Commission requires the services of one or more ALJs, we have retained that office in the table of organization. We have rewritten that section so as to avoid conveying the impression that the Office of ALJs is currently staffed.

The next change eliminates the subdivisions under the Office of the General Counsel and consolidates the functions of that office.

The sixth change eliminates the Office of Technical Staff whose functions are merged under the Office of the Consumer Advocate (formerly known as Officer of the Commission). The proposed change explains the duties of that office and refers to Appendix A to section 3002 on the policies regarding the Office of the Consumer Advocate.

The final change rennumbers § 3002.9 to § 3002.8.

List of Subjects in 39 CFR Part 3002

Organizations and Functions (Government Agencies).

PART 3002—ORGANIZATION

1. For the reasons set out above, the Commission revises 39 CFR §§ 3002.2-3002.7 as follows:

§ 3002.2 The Commission and its offices.

(a) The Commissioners. The Postal Rate Commission is an independent establishment of the executive branch of the U.S. Government created by the

Postal Reorganization Act (84 Stat. 719, title 39, U.S.C.). The Commission consists of five Commissioners appointed by the President and confirmed by the Senate, one of whom is designated as Chairman by the President.

(b) The Chairman and Vice-Chairman. The Chairman has the administrative responsibility for assigning the business of the Commission to the other Commissioners and to the offices and employees of the Commission. He/She has the administrative duty to preside at the meetings and sessions of the Commission and to represent the Commission in matters specified by statute or executive order or as the Commission directs. The Commission shall elect annually a member of the Commission to serve as Vice-Chairman of the Commission for a term of one year or until a successor is elected. In case of a vacancy in the Office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, the Vice-Chairman, unless otherwise directed by the Chairman, shall have the administrative responsibilities and duties of the Chairman during the period of vacancy, absence, or inability.

§ 3002.3 Administrative Office.

(a) The incumbent head of the office is responsible for exercising two executive functions of the Commission and utilizes the title of either "Secretary" or "Chief Administrative Officer", as appropriate.

(b) As Secretary of the Commission, the incumbent head shall have custody of the Commission's seal, the minutes of all action taken by the Commission, its rules and regulations, its administrative and other orders, and records. All orders and other actions of the Commission shall be authenticated or signed by the Secretary or any such other person as may be authorized by the Commission.

(c) As Chief Administrative Officer the incumbent head is also responsible, subject to the policy guidelines of the Commission, for: Development, implementation, and administration of the Commission's financial management system and accounting activities including those relating to the budget and the payroll; development and administration in conjunction with the Personnel Officer of a personnel program designed to meet the needs of the Commission and its employees; development and administration, subject to the supervision of the Chairman, of a public information program appropriate to the agency mission; provision of facilities and operating and support services essential

to the efficient and effective conduct of operations; acquisition, planning and assignment of office space; procurement and supply; serving as the contracting officer for the Commission and controlling the obligation of Commission funds, as authorized by the Commission.

(d) The personnel management functions set out above are the immediate responsibility of the Personnel Officer, whose position is located in the Administrative Office.

§ 3002.4 Office of Technical Analysis and Planning.

(a) The Office of Technical Analysis and Planning is responsible for technical (as opposed to legal) analysis and the formulation of policy recommendations for the Commission.

(b) This office provides the analytic support to the Commission for reviewing the record of rate and classification requests, post office closings and other issues which come before the Commission. The functional areas of expertise within this office are: (1) The economic analysis of the market for postal services including the alternative sources for such services and the users of the service; (2) The analysis of the operational characteristics of the postal system and its interface with various segments of the economy; and, (3) The analysis of the costs of operating the Postal Service and how such costs are influenced by the operational characteristics.

(c) These functional activities are combined in the evaluation of the revenue requirements of the Postal Service under possible alternative operating circumstances for the purpose of developing rate structures. They are also used to evaluate the impact of various proposed changes to the Domestic Mail Classification Schedule and the consequences of these changes upon the mailers and upon the revenue requirements and rate structure of the Postal Service.

(d) The office also collects, analyzes and periodically summarizes financial and various other statistical information for use in its ongoing activities and for the development of future methods, techniques and systems of analysis and reporting.

§ 3002.5 Office of Administrative Law Judges.

The Office of Administrative Law Judges is responsible for discharging the functions and exercising the powers of such Administrative Law Judges as the Commission may from time to time employ, in hearings, and in accordance with the provisions of sections 550 and

557 of the Administrative Procedures Act (5 U.S.C. 556 and 557).

§ 3002.6 Office of the General Counsel.

The General Counsel directs and coordinates the functions of the Office of the General Counsel and is directly responsible for the counseling and advisory services set forth in 39 CFR 3000.735-203. In accordance with § 3001.8 of the rules of practice, the General Counsel does not appear as an attorney in hearings in any proceeding before the Commission and takes no part in the preparation of evidence or argument presented in such hearings. The General Counsel represents the Commission in court proceedings and performs legal research on issues coming before the Commission; advises the Commission on the legal aspects of proposed legislation and rulemaking, the legal aspects of proposed action and policies on procurement, contracting, personnel matters, and other internal legal questions.

§ 3002.7 Office of the Consumer Advocate.

(a) The Office of the Consumer Advocate provides representation for the interests of the general public in Commission proceedings. The office prepares and litigates before the Commission legal and evidentiary presentations in all formal Commission dockets under Chapter 36 of Title 39, U.S. Code. It also is responsible for maintaining a continuing litigation capability including preparation for consideration of issues likely to reflect the interests of the general public in subsequent proceedings.

(b) The head of this office is responsible for directing both legal and technical personnel to fulfill its functions. The office includes both litigation attorneys and a broad spectrum of technical expertise to analyze and evaluate the diverse economic, cost and market issues before the Commission. During the pendency of a proceeding, personnel serving in the Office of the Consumer Advocate are prohibited from participating or advising as to any intermediate or Commission decision in that proceeding pursuant to the Commission Rules of Practice.

(c) A policy statement regarding the Office of the Consumer Advocate is contained as Appendix A to this part.

§ 3002.8 [Redesignated from § 3002.9]

2. Section 3002.9 is redesignated and becomes 3002.8.

3. Appendix A is revised to read:

Appendix A

(The following policy statement regarding the Office of the Consumer Advocate

(formerly Office of the Officer of the Commission) was adopted by the Commission and published at 47 FR 25523, June 14, 1982.)

1. The officer of the Commission appointed under 39 U.S.C. 3024(a) shall be appointed from the Office of the Consumer Advocate and shall assist, using the means and procedures available to parties before the Commission, to develop a complete and accurate record by:

(a) Identifying information or data that are needed in addition to those presented by other parties;

(b) Identifying inaccuracies or fallacies in submitted data or information; and

(c) Sponsoring relevant and material evidence which presents needed data or information, which critiques record evidence, or which supports proposals of the officer or other participants not inconsistent with Commission precedents and judicial decisions reviewing Commission precedents. The preceding shall not preclude the officer from offering testimony on a methodology which the Commission has previously considered but not adopted, if a fair reading of the Commission opinion(s) concerned shows that such methodology offers potential benefits and new data are available to remedy any defects cited by the Commission.

2. To argue for equity on behalf of the general public and principally those segments of the general public who are not otherwise represented in PRC proceedings. In so doing, the officer shall consider both long and short term consequences.

3. During the course of proceedings the officer, in accordance with Commission rules, shall maintain complete independence from the members of the Commission and the agency's advisory staff.

David F. Harris,
Secretary.

[PR Doc. 83-7163 Filed 3-29-83; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2323-3; KY-005]

Approval and Promulgation of State Implementation Plans; Kentucky: Set II VOC Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing full approval of regulations for the control of volatile organic compounds (VOC), Set II, which the Commonwealth of Kentucky submitted pursuant to requirements of Part D, Title I, of the Clean Air Act (CAA). EPA on November 24, 1981 (46 FR 57486), approved these State Implementation Plan (SIP) revisions on condition that the State

adopt and submit a regulation for leaks from gasoline tank trucks and collection systems by March 1, 1982. The State has adopted and submitted the regulation and EPA is removing the conditional approval of Kentucky's Set II VOC regulations. EPA proposed this action on November 17, 1982 (47 FR 51769). This regulation applies only to the loading and transporting of gasoline at bulk plants and terminals in urban ozone nonattainment areas. This revision will improve ambient air quality in such areas.

DATE: This action is effective on April 29, 1982.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Library, Office of the Federal Register,
Room 8401, 1100 L Street, NW.,
Washington, D.C. 20005
Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street, SW., Washington, D.C.
20460
Air Management Branch, EPA, Region
IV, 345 Courtland Street, N.E., Atlanta,
Georgia 30365
Kentucky Department for Environmental
Protection, 18 Reilly Road, Building 2,
Fort Boone Plaza, Frankfort, Kentucky
40601

FOR FURTHER INFORMATION CONTACT:
Waymond Blackmon, EPA Region IV,
Air Management Branch, 404/881-2864
or FTS 257-2864.

SUPPLEMENTARY INFORMATION: Part D of the Title I of the Clean Air Act, as amended in 1977, requires that states revise their State Implementation Plan (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). As part of their control strategies for attainment of the NAAQS for ozone (O_3), Kentucky revised their SIP to require control of volatile organic compounds (VOC) from source categories for which EPA published Control Technique Guideline (CTG) documents:

SIP revisions were submitted by the Commonwealth of Kentucky on June 6, 1979, February 5, 1981, and September 24, 1982. EPA conditionally approved the Kentucky State Implementation Plan revision for lack of an appropriate gasoline tank truck regulation. (See 46 FR 57486, November 24, 1981). Since the State has adopted and submitted such a regulation, EPA is today removing the conditional approval for Kentucky's regulations. The provisions of this regulation shall apply to affected gasoline tank trucks which load at bulk terminals and bulk gasoline plants in

urban counties designated nonattainment for ozone. No owner or operator of a gasoline tank truck subject to this regulation shall allow loading unless the gasoline tank truck has a valid Kentucky pressure-vacuum test sticker attached and visibly displayed. EPA called for public comments on the November 17, 1982 proposed action. One comment was received. The following is a discussion of that comment.

Comment. The State of Kentucky requested that changes be made in the final Federal Register notice to correspond with the July 14, 1982 adopted regulation for leaks from gasoline tank trucks. Due to an oversight by EPA, the proposed published Federal Register notice (46 FR 51769, November 17, 1982) discussed a proposed regulation Kentucky submitted earlier, and not the actual regulation Kentucky adopted. EPA had reviewed both the proposed and the actual regulation that was adopted and found both to comply with EPA policy and guidance. The regulation we are approving today shall apply to affected gasoline tank trucks which load at bulk terminals and bulk gasoline plants in urban counties designated nonattainment for ozone. No owner or operator of a gasoline tank truck subject to this regulation shall allow loading unless the gasoline tank truck has a valid Kentucky pressure-vacuum test sticker attached and visibly displayed. This sticker indicates that the gasoline tank truck and its vapor collection system have been tested as having a pressure change of no more than seventy-five (75) mm water (three (3) in. water) in five (5) minutes when pressurized to 450 mm water (eighteen (18) in. water) and evacuated to 150 mm water (six (6) in. water) using test procedure as defined in Appendix B to "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", OAQPS 1.2-119, U.S. EPA, Office of Air Quality Planning and Standards.

Response. Rather than re-propose the gasoline tank truck regulation Kentucky adopted, EPA is today giving full approval to the regulation. This is based upon both the proposed and adopted regulations meeting EPA requirements. Nothing could be gained from re-proposing the actual regulation, since only one comment was received and this by the state of Kentucky asking EPA to correct our oversight.

Action. EPA gives full approval to the Commonwealth of Kentucky's Set II VOC regulations.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the States Court of Appeals for the appropriate circuit by

May 31, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

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

(Sec. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 22, 1983.

John W. Hernandez,
Acting Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

1. In § 52.920, paragraph (c) is amended by inserting an additional date in subparagraph (22) as follows:

§ 52.920 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(22) Set II VOC regulations, submitted on February 5, 1981, and September 24, 1982, by the Kentucky Department for Environmental Protection.

§ 52.930 [Amended]

2. In § 52.930, Control Strategy: Ozone, paragraph (a), dealing with conditional approval of the Set II VOC regulations, is removed.

(FR Doc. 83-8229 Filed 3-29-83; 8:45 am)
BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2293-3]

Ohio; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA announces today final rulemaking on a revision to the Ohio State Implementation Plan (SIP)

for ozone. The result of this revision for the Mead Paper Corporation Chilpaco Mill in Ross County, Ohio, is to amend emission limitations and extend compliance dates for three flexographic printing lines which are subject to Ohio Administrative Code (OAC) Rule 3745-21-09(Y)(1) and Rule 3745-21-04(C)(32)(a). EPA's action is based upon a revision and technical support documentation which was submitted by the State.

DATE: This action will be effective May 31, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Ohio SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Debra Marcantonio, at (312) 886-6088 before visiting the Region V Office).

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460
Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: On September 10, 1982, the Ohio Environmental Protection Agency (OEPA) submitted a revision to its ozone SIP for the Mead Paper Corporation, Chilpaco Mill. This facility is located in Ross County, Ohio, a rural nonattainment area for ozone. Ohio's ozone SIP for this county was approved on October 31, 1980 (45 FR 72122) and on June 29, 1982 (47 FR 28097). According to the approved ozone SIP, Ross County will attain ozone National Ambient Air Quality Standards (NAAQS) by December 31, 1982. This is based upon EPA's belief that control of sources of

volatile organic compounds (VOC) in major urbanized areas will result in attainment of the ozone standard in downwind rural nonattainment areas.

This revision is in the form of three variances from the requirements of OAC Rule 3745-21-09(Y) and the compliance schedule contained in OAC Rule 3745-21-04 (C)(32). The variances contain revised emission limits and an extended compliance time schedule for the three flexographic printing lines.

Under the existing Federally approved SIP, the three flexographic printing lines are subject to the following control requirements contained in OAC Rule 3745-21-09(Y)(1):

(a)(i) That the VOC content of the inks employed in the printing lines do not exceed 40% by volume, or

(ii) The VOC content of the inks employed in the printing lines do not exceed 25% by volume of the volatile content, or

(b) That the printing lines be equipped with a capture/control system which provides an overall control efficiency of at least 58.5%.

The technical support submitted by OEPA indicates that it is technically infeasible for Mead Paper to comply with the requirements mentioned in Section (a)(i) above. Due to the type of printing equipment used and the specifications pertaining to product quality, it is not possible for Mead Paper to employ high solids inks. The solids content of the inks must remain in the range of 3-5% (by volume) in order for the printing of the safety paper that Mead Paper manufactures to be effective. It is, however, possible to convert to waterborne ink formulations even though the requirements in Section (a)(ii) above cannot be met. For most inks, the technical documentation indicates that a 70% water—30% alcohol mixture can be used as the carrier. For certain inks containing gold or yellow pigments only a 50% water—50% alcohol mixture can be used as the carrier. The documentation indicates that these water-alcohol compositions are the best that can be achieved for these printing operations at the facility.

The technical data submitted by OEPA also indicates that the conversion to waterborne ink formulations would be much more cost-effective than installing a capture/control system as required by OAC Rule 3745-21-09(Y)(1)(b) for the following reasons:

1. Installing a carbon adsorption system at Mead Paper would be technically and economically unreasonable, because an inordinate amount of activated carbon would be required to adsorb a small amount of alcohol vapor.

2. Installing an incineration system would be economically unreasonable because the plant could convert to a water-alcohol base ink at a substantially reduced cost and this conversion would result in a VOC emission reduction of 60% which is greater than the reduction currently required by OAC Rule 3745-21-09(Y)(1)(b).

The following table compares the estimated costs for conversion and incineration.¹

	Conversion to water-alcohol base	Incineration
Capital cost	\$283,600	\$748,500
Total annualized operating cost ²	220,680	118,940
Annual operating cost per ton of Solvent Reduced ³	400	340

¹ All costs are estimated in June 1981 dollars.
² Includes capital costs, at 16 years life, at 20% financing.
³ Based on uncontrolled solvent usage of 250 lbs./hr., and operations of 24-hr./day, 6-days/week, and 52-week/yr and 60% solvent emission reductions.
⁴ Those negative values reflect a cost savings in converting from the use of organic solvent to water.

OEPA has, therefore, requested in its SIP revision that the above-mentioned water-alcohol carrier mixture be used as the basis for a new, facility-specific definition of RACT for the inks employed at the Chilpaco Mill, in lieu of the current requirements of OAC Rule 3745-21-09(Y). Such an alternative RACT definition will result in a 60% reduction in VOC emissions from the facility. (For calendar year 1980, this would be equivalent to a reduction in VOC emissions of approximately 535 tons). This is slightly greater than the 58.5% overall control required by OAC Rule 3745-21-09(Y)(1)(b).

Therefore, in lieu of the requirements of OAC Rule 3745-21-09(Y), the variances specify that the VOC content of the inks employed at the three printing lines (K001, K002 and K003) shall not exceed the following limitations.

- (1) For the inks containing gold or yellow colored pigments, 50% (by volume) of the volatile content of the inks; and
- (2) For all other inks, 30% (by volume) of the volatile content of the inks.
- (3) In addition, the volume-weighted average VOC content of all inks employed in sources K001, K002 and K003 during any calendar quarter shall not exceed 40% (by volume) of the volatile content of the inks.

The conversion to waterborne ink formulations will require the Mead Corporation to install a new drying oven for each printing line. One of the lines will serve as a prototype design, and its performance will be evaluated thoroughly prior to completing the

designs for the remaining two drying systems. Therefore, the variances also contain revised compliance schedules for each of the lines. The three flexographic printing lines are currently subject to OAC Rule 3745-21-04(C)(32)(a) which specifies a final compliance date of December 31, 1982. The variances specify that printing line K003 will be brought into compliance with the revised RACT requirements by no later than September 1, 1983. The remaining two printing lines (K001 and K002) will be completed and in compliance by no later than September 1, 1985. EPA has reviewed these schedules and feel they contain enforceable increments of progress leading to final compliance as expeditiously as practicable. As noted earlier, Ross County was expected to attain the ozone NAAQS by December 31, 1982 and therefore this SIP revision will not interfere with attainment of the NAAQS by the required statutory deadline.

Based on the technical and economic justification submitted by OEPA, EPA believes that the control requirements specified in the three variances for the flexographic printing lines represent RACT for the Mead Paper Corporation. Additionally, EPA believes the revised compliance schedules are as expeditious as practicable. Therefore, EPA is approving these variances as a revision to the Ohio ozone SIP.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on May 31, 1983. However, if we receive notice by April 29, 1983 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 48 FR 8709).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 31, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead,

Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

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

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 21, 1983.

John W. Hernandez, Jr.,
Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

Subpart KK—Ohio

1. Section 52.1870(c) is amended by adding paragraph 49 as follows:

§ 52.1870 Identification of the Plan.

* * * * *

(c) * * *

* * * * *

(49) On September 10, 1982 the Ohio Environmental Protection Agency submitted a revision to its ozone SIP for the Mead Paper Corporation, Chillicothe Mill in Ross County, Ohio. This revision is in the form of three variances for the three flexographic printing lines at Mead Paper and contains revised emission limits and compliance schedules for each of the lines. Technical Support for this revision was also submitted on April 27, 1982.

[FR Doc. 83-6199 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 86

[AMS-FRL 2333-7]

Clarification of Regulations Establishing Emission Standards for Oxides of Nitrogen (NO_x) for Certain 1984 Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clarification of final rule.

SUMMARY: This notice clarifies the extent of coverage of a previous regulation which established a NO_x standard for one 1984 model year light-duty vehicle engine family for which EPA granted a waiver from the otherwise applicable NO_x standard. This notice will allow the affected manufacturer to introduce into commerce the engine families in question under the less stringent waived

NO_x emission standard described below.

EFFECTIVE DATE: April 29, 1983.

FOR FURTHER INFORMATION CONTACT:

Peter J. Murtha, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-2521.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Act, 42 U.S.C. 7521(b)(1)(B), requires that light-duty vehicles or engines manufactured during or after the 1981 model year shall be subject to regulations containing standards limiting NO_x emissions from such vehicles or engines to no more than 1.0 gram per vehicle mile (g/mi). Section 202(b)(6)(B) of the Act authorizes the Administrator, upon application by any manufacturer, to waive the statutory 1.0 g/mi NO_x standard for the 1981 through 1984 model years for any light-duty diesel engine family for which the Administrator can make the required statutory findings. The Administrator is required to promulgate interim NO_x standards applicable to the subject engine families for those model years for which a waiver has been granted.

On September 19, 1981, EPA issued a waiver decision and final rule¹ establishing a substitute standard of 1.5 g/mi NO_x for the 1984 model year for the 2.0 liter (L) engine family produced by Daimler-Benz AG (DBAG). On October 21, 1982, Mercedes-Benz of North America, Inc. (MB), on behalf of its parent company DBAG, sent EPA a letter (October 21 letter) requesting EPA to find that DBAG's new 1984 model year 2.2L engine, derived from and replacing its 2.0L engine family, is covered by the NO_x waiver granted for the 2.0L engine family.

EPA has concluded on the basis of the information contained in the October 21 letter, a subsequent letter sent by MB to EPA on November 9, 1982 (November 9 letter), and DBAG's original waiver application for its 2.0L engine family,² that the determinations made in the NO_x waiver decision regarding the 2.0L engine family are applicable to the 2.2L engine, and, therefore, that the technology found in the 2.2L is within the scope of the NO_x waiver granted the 2.0L.

¹ 46 FR 47222. See also Application for Waiver of the 1982-1984 Model Year Oxides of Nitrogen Emission Standard for Light-Duty Diesel Motor Vehicles—Ninth Consolidated Decision of the Administrator (Ninth NO_x Waiver Decision), contained in EPA Public Docket EN-81-7.

² "Statement of Daimler-Benz AG," dated April 1981 (DBAG waiver application), contained in EPA Public Docket EN-81-7.

DBAG has shown that the subject 2.2L engine is similar or identical to the 2.0L in all major parameters except that it has a longer piston stroke and a consequently larger displacement.³ The displacement between the two engines is within the 50 cubic inch differential EPA has established for determining engine family relationships for certification purposes⁴ and the two engines will be employed in vehicles of the same weight.⁵ Moreover, MB has submitted test data demonstrating that although the 2.2L engine emits slightly higher NO_x emissions than the 2.0L engine, it produces somewhat less particulate (P), carbon monoxide (CO) and hydrocarbon (HC) emissions.⁶ Thus, on the basis of the foregoing information I conclude that the design differences between the 2.0L and 2.2L engines are minor enough that the emission characteristics of the 2.0L emission control systems are representative of the emission characteristics of the 2.2L.⁷

For clarification, this notice amends 40 CFR 86.082(a)(1)(iii) to reflect this determination.

Under section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), EPA finds that a notice of proposed rulemaking on this amendment and public procedures thereon are unnecessary and would be contrary to the public interest. This technical

³ October 21 letter at page 4. The only other significant modification made in producing the 2.2L engine is the elimination of exhaust gas recirculation (EGR), which DBAG indicates is necessary to solve vehicle driveability and engine durability problems. See November 9 letter at page 2. DBAG recognized in its original waiver application that there were numerous problems associated with the use of the mechanical EGR system that it expected to use with the 2.0L engine, including poor driveability and engine durability. See DBAG waiver application at 25-36, 53-56, 77. These problems were part of the reason EPA granted a waiver for the 2.0L engine family. See Ninth NO_x Waiver Decision at 16, n.54. DBAG has been unable to solve these problems. See November 9 letter at page 2. In any event, EGR is not a mandatory engine family determinant. See 40 CFR 86.084-24(a)(2).

⁴ See EPA, Mobile Source Air Pollution Control Advisory Circular No. 20-8 (June 27, 1974) at 3.

⁵ October 21 letter at page 4.

⁶ The November 9 letter shows the following DBAG emission data for the two engines:

	HC	CO	NO _x	P
2.2L w/o EGR	0.2-0.35	0.8-1.4	1.17-1.39	0.3-0.5
2.0L w/EGR	0.25-0.40	1.0-1.8	1.0-1.30	0.4-0.6

⁷ As noted above, to the extent there are emission differences between the 2.0L and 2.2L engines, the 2.2L engine would result in less overall emissions. *Id.* Moreover, as the original waiver decision for the 2.0L engine family noted, increased particulate emissions pose potentially greater health risks than increased NO_x emissions. Ninth NO_x Waiver Decision at 22.

amendment clarifies the scope of an earlier decision based upon notice, comment and public hearing. Repeating those procedures is unnecessary, and would delay production and introduction of the 2.2L engine.

Section 3(b) of Executive Order 12291 requires EPA to determine initially whether a rule that it intends to propose or issue is a major rule and to prepare a Regulatory Impact Analysis for all major rules. EPA has determined that this action does not constitute a major rule. The action merely confirms that the 2.2L engine produced by Daimler Benz AG is within the scope of a previously granted waiver of the NO_x emission standard. If anything, the action will likely result in cost savings to consumers and industries affected because of the less stringent requirement and will likely have a beneficial effect on competition (both foreign and domestic), employment, investment, productivity, and innovation. Accordingly, a Regulatory Impact Analysis is not being prepared for this waiver determination.

List of Subjects for 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

[Sec. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7501(a)]

Dated: March 18, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-8205 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1845/6E1853/7E1931/2E2734/R529; PH-FRL 2332-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities; Paraquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the desiccant, defoliant, and herbicide paraquat in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the pesticide in or on the commodities was requested, pursuant to petitions submitted, by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on March 30, 1983.

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

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

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the Federal Register of February 9, 1982 (48 FR 5968) that announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted the following pesticide petitions to EPA on behalf of the IR-4 Technical Committee and the named Agricultural Experiment Stations: 6E1845 on behalf of the Agricultural Experiment Stations of California, Illinois, Massachusetts, Maryland, Michigan, New Jersey, and Virginia; 6E1853 on behalf of the Agricultural Experiment Stations of Florida, Louisiana, Connecticut, Indiana, Texas, Maryland, and California; 7E1931 on behalf of the Agricultural Experiment Station of California; and 2E2734 on behalf of the Agricultural Experiment Stations of Arkansas, California, Florida, Georgia, Illinois, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Texas, and Washington.

These pesticide petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion), resulting from application of either the bis (methyl sulfate) or the dichloride salt (both calculated as the cation), in or on the following raw agricultural commodities: PP 6E1845—asparagus at 0.5 part per million (ppm); PP 6E1853—strawberries at 0.25 ppm (resulting from application of the herbicide to the shielded growing raw agricultural commodity); PP 7E1931—onions (dry bulb or green) at 0.05 ppm; and PP 2E2734—broccoli at 0.05 ppm.

The data submitted in the petitions and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful

for the purposes for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

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

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

(Sec. 406(e), 68 Stat. 514 (21 U.S.C. 346(a)(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 18, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.205 is amended by adding and alphabetically inserting the raw agricultural commodities asparagus, broccoli, onions (dry bulb), onions (green), and strawberries to read as follows:

§ 180.205 Paraquat; tolerances for residues.

Commodities	Parts per million
Asparagus	0.5
Broccoli	0.05
Onions, dry bulb	0.05
Onions, green	0.05
Strawberries	0.25

[FR Doc. 83-8061 Filed 3-29-83; 8:46 am]

BILLING CODE 5550-50-M

40 CFR Part 180

[PP 1F2447/R538; PH-FRL 2330-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide alachlor and its metabolites in or on the raw agricultural commodity sunflower seed. This regulation to establish a maximum permissible level for the combined residues of alachlor in or on the commodity was requested, pursuant to a petition, by the Monsanto Company.

EFFECTIVE DATE: Effective on March 30, 1983.

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

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

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of January 21, 1981 (46 FR 6861), that announced that the Monsanto Company, 1101 17th St. NW, Washington, D.C. 20036, had submitted pesticide petition 1F2447 to the Agency proposing to amend 40 CFR 180.249 by establishing a tolerance for the combined residues of the herbicide alachlor [2-chloro-2',6'-diethyl-N-(methoxymethyl) acetanilide] and its metabolites (calculated as alachlor) in or on the raw agricultural commodity sunflower seed at 0.5 part per million (ppm). The petitioner subsequently amended the petition to reduce the tolerance level to 0.25 ppm.

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

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the tolerance included acute studies, a teratology study (rat) with no-observed teratogenic effects at 400 milligram (mg) kilogram (kg)/day (highest dose tested) and a no-observed-effect level (NOEL) of 150 mg/

kg/day for maternal toxicity and fetotoxic effects; a 3-generation reproduction study (rat) with a NOEL of 10 mg/kg/day; an 18-month chronic feeding/oncogenic study (mice) which demonstrated a positive oncogenic response in females (bronchiolar alveolar tumors) at 260 mg/kg/day; and a 2-year chronic feeding/oncogenicity study (rats) with no NOEL demonstrated at 14 mg/kg/day (lowest dose tested), and which demonstrated a positive oncogenic response at 42 mg/kg/day (both sexes (nasal turbinate tumors)) and at 126 mg/kg/day (both sexes (nasal and stomach tumors) and male (thyroid follicular tumors)).

The theoretical maximal residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0342. The current action will increase the existing TMRC by 0.3 percent.

Data lacking include a 2-year chronic feeding study (rats), a 1-year feeding study (dogs), a teratology study (rabbits), a metabolism study (rats), a skin sensitization study on guinea pigs (technical), and mutagenicity studies. Because the increase in TMRC is less than 1 percent for this use, the available toxicology data are adequate to support the establishment of the tolerances.

There are no regulatory actions pending against the continued registration of the pesticide. However, the chemical had been determined to be an oncogen in rats and mice. None of the ten models used to estimate the quantitative risk fits the data adequately. The statistical representation of these data will be assessed further in the reregistration review of this compound; however, for the sunflower use the upper limit of risk is less than 10^{-7} based upon the tolerance level. Because of the very conservative nature of the risk assessment and the utility of the pesticide for the purpose for which this regulation is sought, the Agency has determined the oncogenic risk associated with the use is outweighed by the benefits.

The nature of the residues in plants and animals is adequately understood. An adequate analytical method, gas chromatography using a flame ionization detector, is available for enforcement purposes. Residues are likely to occur in meat, milk, poultry, and eggs, but the residues should be adequately covered by tolerances established on these commodities.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance

would protect the public health and is established set forth below.

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

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 17, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.249 is amended by adding and alphabetically inserting the commodity sunflower seed to read as follows:

§ 180.249 Alachlor; tolerances for residues.

Commodities	Parts per million
• • • • •	
Sunflower seed	0.25
• • • • •	

[FR Doc. 83-7800 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2576/R523; PH-FRL 2330-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide ametryn in or on the raw agricultural commodities taniers and yams. This regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was requested, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on March 30, 1983.

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

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

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the Federal Register of February 2, 1983 (48 FR 4678) that announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 1E2576 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Puerto Rico proposing to amend 40 CFR 180.258 by establishing tolerances for residues of the herbicide ametryn (2-(ethylamino)-4-(isopropylamino)-6-(methylthio)-s-triazine) in or on the raw agricultural commodities taniers and yams at 0.1 part per million (ppm). The petition was later amended increasing the tolerance level to 0.25 ppm.

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

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

concluded that the tolerances would protect the public health and are established set forth below.

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 17, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.258 is amended by adding and alphabetically inserting the raw agricultural commodities taniers and yams to read as follows:

§ 180.258 Ametryn; tolerances for residues.

Commodities	Parts per million
• • • • •	
Taniers	0.25
Yams	0.25

[FR Doc. 83-7881 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2759/R531; PH-FRL 2332-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; N,N-Diethyl-2-(1-Naphthalenyloxy) Propionamide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide N,N-diethyl-2-(1-naphthalenyloxy) propionamide (Napropamide) in or on the raw agricultural commodities marjoram, rosemary, and summer and winter savory. This regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on March 30, 1983.

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

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

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the Federal Register of February 9, 1982 (48 FR 5966) that announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2759 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide N,N-diethyl-2-(1-naphthalenyloxy)propionamide (Napropamide) in or on the raw agricultural commodities marjoram, rosemary, and summer and winter savory at 0.1 part per million (ppm).

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

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the

Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 49 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 18, 1983.

Edwin L. Johnson,

Director Office of Pesticide Programs.

Therefore, 40 CFR 180.328 is amended by adding and alphabetically inserting the raw agricultural commodities marjoram, rosemary, and summer and winter savory to read as follows:

§ 180.328 N,N-Diethyl-2-(1-naphthalenyloxy) propionamide; tolerances for residues.

Commodities	Parts per million
Marjoram	0.1
Rosemary	0.1
Savory, Summer	0.1
Savory, winter	0.1

(FR Doc. 83-8050 Filed 3-29-83; 8:45 am)

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300074A; PH-FRL 2334-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for phenolic resins when used as an inert ingredient binding agent in pesticide formulations. This regulation was requested by the Union Carbide Agricultural Products Company.

EFFECTIVE DATE: Effective on March 30, 1983.

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

FOR FURTHER INFORMATION CONTACT: Roland D. Blood, Process Coordination Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716H, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (793) 557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of February 9, 1983 (48 FR 6023) that announced that the Union Carbide Agricultural Products Company, Inc., P.O. Box 12014, T. W. Alexander Drive, Research Triangle Park, NC 27709, had submitted a request that residues of phenolic resins, as defined by 21 CFR 175.300(b)(vi)(a), be exempted from the requirement of a tolerance when used as an inert ingredient binding agent in pesticide formulations applied to growing crops only. This exemption would be granted under 40 CFR 180.1001(d) and would be limited to soil applications.

Inert ingredients are ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The bases for the exemption are:

1. Safety of the phenolic resins is inferred from its current listing as an indirect food additive under 21 CFR 300(b)(iv)(a), resinous and polymeric coatings in continual contact with foodstuffs.

2. Since application of formulations containing phenolic resins will be limited to soil use only, no toxicological residues are expected on raw agricultural commodities at time of harvest.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

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

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

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

List of Subjects in 40 CFR Part 180

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

(Sec. 408(d)(92), 68 Stat. 512 [21 U.S.C. 346a(d)(2)])

Dated: March 22, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient phenolic resins to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

(d) ***

Inert ingredients	Limits	Uses
Phenolic resins	Soil applications	Binding agent.

[FR Doc. 83-8204 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 430 and 431

[WH-FRL 2333-1]

Pulp, Paper, and Paperboard and the Builders' Paper and Board Mills; Point Source Categories; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting coding and typographical errors that appeared in the final regulations for the pulp, paper, and paperboard and the builders' paper and board mills point source categories. These regulations were published on November 18, 1982 (47 FR 52006). The purpose of this action is to ensure that the final regulations are properly applied in issuing permits and pretreatment requirements applicable to wastewater discharges from the pulp, paper, and paperboard industry.

FOR FURTHER INFORMATION CONTACT: Robert W. Dellinger or Wendy D. Smith, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 382-7137.

SUPPLEMENTARY INFORMATION:

I. Preamble

In the preamble to the regulation published in the Federal Register on November 18, 1982 (47 FR 52006-52019), the following corrections are required:

1. On page 52006, column 1, line 53; change: "December 2, 1983" to "December 2, 1982".

2. On page 52009, column 3,
(a) Line 25; change: "33.6" to "29.8".
(b) Line 26; change: "39.3" to "35.9".
(c) Line 29; change: "9.1" to "12.5".
(d) Line 30; change: "21.6" to "21.8".

3. On page 52010, column 1, line 24; change: "NSPA" to "NSPS".

4. On page 52012, column 2, line 23; change: "\$28,000" to "\$32,400".

5. On page 52013, column 1, line 15 from the bottom; change: "\$28,000" to "\$32,400".

6. On page 52016, column 1, line 30; change: "34" to "29".

7. On page 52016, column 1, lines 46-49; change: "Responses to Public Comments, Proposed Pulp, Paper, and Paperboard Industry Effluent Guidelines and Standards," to "Summary of Comments and Responses on the January 1981 Proposed Regulations for the Pulp, Paper, and Paperboard Industry,".

8. On page 52016, column 1, line 56; change: "NSP" to "NSPS".

9. On page 52016, column 2, line 29; change: "implemtenation" to "implementation".

10. On page 52018, column 2, line 9; change: "sulfitemarket" to "sulfite market".

11. On page 52018, column 2, line 58; change: "wastpaper" to "wastepaper".

II. Regulations

In 40 CFR Parts 430 and 431, as published on November 18, 1982 (47 FR 52006) the following corrections are made:

1. On page 52021, column 1, § 430.132; change: "rest" to "best".

2. On page 52021, column 1, Subpart N; change: "Pages" to "Papers".

3. On page 52022, column 1, § 430.227; change: "sources (PSNS). (PSNS)" to "sources (PSNS)".

4. On page 52022, column 2, § 430.245; change: "(NSP)" to "(NSPS)".

5. On page 52022, column 3, § 430.255; change: "(SNPS)" to "(NSPS)".

6. On page 52022, column 3, § 430.01(a); change: "Paper and paperboard production shall be measured at the off-the-machine moisture content whereas market pulp shall be measured in air-dry-tons (10% moisture)." to "Paper and paperboard production shall be measured at the off-the-machine moisture content, except for subpart A, B, D, and E where paper and paperboard production shall be measured in air-dry-tons (10% moisture content). Market pulp shall be measured in air-dry-tons (10% moisture).".

7. On page 52023, column 2, § 430.12, in the table; change: "Within the range of 5.0 to 9.0 at all times." to "Within the range of 6.0 to 9.0 at all times.".

8. On page 52023, column 3, § 430.14, in the table; for Pentachlorophenol; change: "(0.011)(12.6)/y" to "(0.011)(12.6)/y".

9. On page 52024, column 3, § 430.17, in the table; change: "Subpart A" to "[Facilities where bag paper and other mixed products are produced]".

10. On page 52024, column 3, § 430.22, in the table; change: "Within the range of 5.0 to 9.0 at all times." to "Within the range of 6.0 to 9.0 at all times.".

11. On page 52025, column 1, § 430.22, in the table; change: "Within the range of 5.0 to 9.0 at all times." to "Within the range of 6.0 to 9.0 at all times.".

12. On page 52025, column 1, § 430.24; change: "best technology" to "best available technology".

13. On page 52026, column 1, § 430.42, in the table; change: "Within the range of 5.0 to 9.0 at all times." to "Within the range of 6.0 to 9.0 at all times.".

14. On page 52026, column 3, § 430.52, in the tables for the [Noncorrugating

medium furnish subdivision] and the [Corrugating medium furnish subdivision]; change: "Within the range of 5.0 to 9.0 at all times." to "Within the range of 6.0 to 9.0 at all times."

15. On page 52026, column 3, § 430.52, in the table for the [Corrugating medium furnish subdivision]; for BOD5 and TSS; change: "5.5" to "5.7" and "7.1" to "9.2".

16. On page 52027, column 1, § 430.55; change: (a) "[Noncorrugating medium furnished subdivision]" to "[Noncorrugating medium furnish subdivision]".

(b) the table format from:

NSPS	Maximum for any 1 day
	Average of daily values for 30 consecutive days

to:

NSPS	
Maximum for any 1 day	Average of daily values for 30 consecutive days

17. On page 52027, column 2, § 430.56(b); change: "necessary" to "necessary".

18. On page 52031, column 2, § 430.82(a), in the table; (a) change: "BPT effluent limitations" to "Pollutant or pollutant property" and "Pollutant or pollutant property" to "BPT effluent limitations" (b) for BOD5 and TSS; change: "7/1" to "7.1" and "24.00" to "24.0".

19. On page 52033, column 2, § 430.92(c), change the table format from:

BPT effluent limitations	Maximum for any 1 day
	Average of daily values for 30 consecutive days

to:

BPT Effluent Limitations	
Maximum for any 1 day	Average of daily values for 30 consecutive days

20. On page 52035, column 1, in the table for Subpart J, [Acid sulfite liquor/ barometric condensers]; for BOD5; change: "35.5" to "35.55".

21. On page 52036, column 1, § 430.105, make the following table changes:

(a) Insert the title "Subpart J" above the table.

(b) Change: "Subpart J" to "Pollutant or pollutant property".

(c) change "NSPS Pollutant or pollutant property" to "NSPS".

(d) for TSS, change: "3.03exp(0.017x)" to "5.81exp(0.017x)" and "5.81exp(0.017x)" to "3.03exp(0.017x)".

(e) for Pentachlorophenol, change: "0.00058exp(0.107x)" to "0.00058exp(0.017x)".

(f) change the table format from:

Maximum for any 1 day	Kg/kg (pounds per/1,000 lb) of product
	Milligrams/liter

to:

Maximum for any 1 day	
Kg/kg (pounds/1,000 lb) of product	Milligrams/liter

22. On page 52037, column 1, § 430.112, in the tables; (a) for [Facilities where nitration grade pulp is produced]; change the table format from:

BPT effluent limitations	Maximum for any 1 day
	Average of daily values for 30 consecutive days

to:

BPT Effluent Limitations	
Maximum for any 1 day	Average of daily values for 30 consecutive days

(b) for [Facilities where nitration grade pulp is produced], for BOD5; change: "21.55" to "21.5"

(c) for [Facilities where cellophane grade pulp is produced], for BOD5; change: "25.0" to "24.95".

23. On page 52037, column 1, § 430.112; change: "(c)" to "(b)".

24. On page 52037, column 3, § 430.114, line 9 of the first paragraph; change: "economically" to "economically".

25. On page 52038, column 2, § 430.115,

(a) In the table for [Facilities where nitration grade pulp is produced]; for Pentachlorophenol and Trichlorophenol; change: "(0.012)(59.7)/y" to "(0.012)(59.0)/y" and "(0.076)(59.7)/y" to "(0.012)(59.0)/y".

(b) In the table for [Facilities where viscose grade pulp is produced]; for Pentachlorophenol and Trichlorophenol; change: "(0.012)(59.7)/y" to "(0.012)(59.0)/y" and "(0.076)(59.7)/y" to "(0.012)(59.0)/y".

(c) In the table for [Facilities where

cellophane grade pulp is produced]; for Trichlorophenol; change: "(0.076)(59.0)/y" to "(0.076)(59.0)-y".

26. On page 52038, column 3, § 430.116(a), in the first table;

(a) Change: "[Facilities where acetate grade pulp is produced]" to "[Facilities where nitration, viscose, or cellophane grade pulps are produced]".

(b) For Pentachlorophenol and Trichlorophenol; change: "oi0 (0.011)(72.7)/y" to "(0.011)(66.0)/y" and "0(0.082)(72.7)/y" to "(0.082)(66.0)/y".

27. On page 52040, column 1, § 430.122(e), lines 13 and 14; change: "consecutive effluent limitations by" to "consecutive days effluent limitations, but shall be subject to annual average effluent limitations determined by".

28. On page 52041, column 2, § 430.132(e), lines 5 and 6; change: "consecutive effluent limitations by" to "consecutive days effluent limitations, but shall be subject to annual average effluent limitations determined by".

29. On page 52041, column 3, § 430.134, in the table; for Trichlorophenol; change: "0.0060" to "0.00088" and "(0.068)(21.1)/y" to "(0.010)(21.1)/y".

30. On page 52041, column 3, § 430.135, in the table; for TSS; change: "6.8" to "8.7".

31. On page 52042, column 1, § 430.135, in the table; for Trichlorophenol; change: "0.0060" to "0.00088" and "(0.104)(13.8)/y" to "(0.015)(13.8)/y".

32. On page 52042, column 1, § 430.136(a), in the table; for Trichlorophenol; change: "(0.082)(21.1)/y" to "(0.010)(21.1)/y".

33. On page 52042, column 1, § 430.136(b), in the table; for Trichlorophenol; change: "0.0072" to "0.00088".

34. On page 52042, column 2, § 430.137(a), in the table; for Trichlorophenol; change: "(0.125)(13.8)/y" to "(0.015)(13.8)/y".

35. On page 52042, column 2, § 430.137(b), in the table; for Trichlorophenol; change: "0.0072" to "0.00088".

36. On page 52043, column 2, § 430.142(e), lines 13 and 14; change: "consecutive effluent limitations by" to "consecutive days effluent limitations, but shall be subject to annual average effluent limitations determined by".

37. On page 52043, column 3, § 430.144, in the table; for Trichlorophenol; change: "0.0068" to "0.00099" and "(0.068)(23.8)/y" to "(0.010)(23.8)/y".

38. On page 52044, column 1, § 430.145, in the table; for Trichlorophenol; change:

"0.0068" to "0.00099" and "(0.096)(16.8)/y" to "(0.014)(16.8)/y".

39. On page 52044, column 1, § 430.146(a), in the table; for Trichlorophenol; change: "(0.082)(23.8)/y" to "(0.010)(23.8)/y".

40. On page 52044, column 2, § 430.146(b), in the table; for Trichlorophenol; change: "0.0081" to "0.00099".

41. On page 52044, column 2, § 430.147(a), in the table; for Trichlorophenol; change: "(0.116)(16.8)/y" to "(0.014)(16.8)/y".

42. On page 52044, column 2, § 430.147(b), in the table; for Trichlorophenol; change: "0.0081" to "0.00099".

43. On page 52045, column 2, § 430.152(e), lines 13 and 14; change: "consecutive effluent limitations by" to "consecutive days effluent limitations, but shall be subject to annual average effluent limitations determined by".

44. On page 52045, column 2, § 430.153, in the title; ge: "pullutant" to "pollutant".

45. On page 52045, column 3, § 430.154: (a) in line 15; change: "beaching" to "bleaching" (b) in the table; for Trichlorophenol; change: "0.0062" to "0.00092" and "(0.068)(21.9)/y" to "(0.010)(21.9)/y".

46. On page 52046, column 1, § 430.155, in the table; for Trichlorophenol; change: "0.0062" to "0.00092" and "(0.097)(15.4)/y" to "(0.014)(15.4)/y".

47. On page 52046, column 1, § 430.156(a), in the table; (a) change: "PSPS" to "PSES" (b) for Trichlorophenol; change: "(0.082)(21.9)/y" to "(0.010)(21.9)/y".

48. On page 52046, column 2, § 430.156(b), in the table; for Trichlorophenol; change: "0.0075" to "0.00092".

49. On page 52046, column 2, § 430.157(a), in the table; for Trichlorophenol; change: "(0.117)(15.4)/y" to "(0.014)(15.4)/y".

50. On page 52046, column 2, § 430.157(b), in the table; for Trichlorophenol; change: "0.0075" to "0.00092".

51. On page 52047, column 1, line 3; change: "1983" to "1.83".

52. On page 52050, column 1, § 430.181(a); change: "403.01" to "430.01".

53. On page 52051, column 1, § 430.185, in the table for the [Wood fiber furnish subdivision]; for Trichlorophenol; change: "(0.0116)(9.4)/y" to "(0.016)(9.4)/y".

54. On page 52051, column 1, § 430.186(a), line 10; change: "chlorophenolic-containing" to "chlorophenolic-containing".

55. On page 52051, column 1, § 430.186(a), in the table; change: "Wood fiber furnish" to "Wood fiber furnish".

56. On page 52051, column 3, § 430.187(a), in the table for the [Wood fiber furnish subdivision]; for Pentachlorophenol and Trichlorophenol; change: "(0.054)(9.0)/y" to "(0.052)(9.4)/y" and "(0.017)(9.0)/y" to "(0.016)(9.4)/y".

57. On page 52051, column 3, § 430.187(a), in the table for the [Cotton fiber furnish subdivision]; for Pentachlorophenol; change: "0.044(31.1)/y" to "0.044(31.1)/y".

58. On page 52052, column 3, § 430.196(b), in the table; for Trichlorophenol; change: "0.00095" to "0.00096".

59. On page 52053, column 1, § 430.197(b), in the table; for Trichlorophenol; change: "0.00095" to "0.00096".

60. On page 52053, column 3, § 430.205, in the table; change: "DOD5" to "BOD5".

61. On page 52055, column 3, § 430.214, in the table; for Pentachlorophenol; change: "((0.011)(12.67)exp(0.017))/y" to "((0.011)(12.67)exp(0.017x))/y".

62. On page 52055, column 2, § 430.215, in the table; for TSS; change: "3.03exp(0.017x)" to "5.81exp(0.017x)" and "5.81exp(0.017x)" to "3.03exp(0.017x)".

63. On page 52059, column 3, § 430.245, in both tables; change:

(a) "NSPS" to "Pollutant or pollutant property"

(b) "Pollutant or pollutant property" to "NSPS".

64. On page 52060, column 2, § 430.247(a), in the table; for Pentachlorophenol and Trichlorophenol; change: "0.037(66.8)/y" to "0.037(66.8)/y" and "0.012(66.8)/y" to "0.012(66.8)/y".

65. On page 52063, column 2, § 411.12; replace the table with:

SUBPART A

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
BOD ₅	5.0	3.0
TSS	5.0	3.0
pH	(7)	(7)
Settleable Solids	(7)	(7)

¹ Within the range of 6.0 to 9.0 at all times.

² Not to exceed 0.2 mg/l.

Dated: March 11, 1983.

Rebecca W. Hammer,
Acting Assistant Administrator for Water.

(FR Doc. 83-8067 Filed 3-29-83; 8:45 am)

BILLING CODE 5560-50-M

40 CFR Part 716

[OPTS-84003E; TSH FRL 2324-61]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds certain chemical substances to the list of substances and mixtures for which lists and copies of unpublished health and safety studies must be submitted under section 8(d) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(d) (40 CFR Part 716 Subpart A). The chemical substances to be added were designated for testing consideration by the Interagency Testing Committee (ITC), in its Sixth through Tenth Reports to EPA (45 FR 35897, 45 FR 78432, 46 FR 28138, 47 FR 5456, and 47 FR 22585).

EFFECTIVE DATE: April 29, 1983.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070-0004.

In the Federal Register of September 2, 1982 (47 FR 38780), EPA issued regulations under section 8(d) of TSCA to require submission of unpublished health and safety studies on specifically listed chemicals by chemical manufacturers and processors. The rule establishes standardized reporting requirements and provides for amending the list of chemicals subject to the rule. These chemicals have either been recommended by the Interagency Testing Committee for testing consideration under section 4 of the Toxic Substances Control Act (TSCA) or separately selected by the Environmental Protection Agency for evaluation.

The Interagency Testing Committee (ITC), established under section 4(e) of TSCA (15 U.S.C. 2603(e)), recommends chemical substances, categories of substances, and mixtures for priority

consideration by EPA in the issuance of testing rules under section 4(a) of TSCA (15 U.S.C. 2603(a)). Section 4(e) directs the ITC to revise its list of recommendations every six months as the ITC determines to be necessary.

In the Federal Register of September 2, 1982 (47 FR 38800), EPA proposed to amend 40 CFR 716.17 by adding the chemicals designated for priority testing consideration by the ITC in its Sixth through Tenth Reports. Comments were solicited from the public on this amendment and six comments were received. EPA's responses to the comments appear below. Chemicals designated by the ITC in subsequent reports will be made subject to the rule effective 30 days after publication of a rule amendment to that effect in the Federal Register (see 40 CFR 716.18(b)). A rule amendment adding to the section 8(d) reporting requirement the chemicals designated by the ITC in its Eleventh Report was published on December 3, 1982 (47 FR 54624) under the authority of § 716.18(b).

EPA is adding the following chemical substances and categories of chemical substances to 40 CFR 716.17(a)(3). The ITC report number in which the designation was made follows each chemical substance or category of substances listed below.

Chemicals and Categories Added to Rule

Categories of Chemical Substances

Ethyltoluenes—10th Report.
Fluoroalkenes—7th Report.
Phenylenediamines—6th Report.

Chemical Substances

Benzyl butyl phthalate—7th Report.
Biphenyl—10th Report.
Butyl glycolyl butyl phthalate—7th Report.
Chlorendic acid—9th Report.
4-Chlorobenzotrifluoride—9th Report.
2-Chlorotoluene—8th Report.
Diethylenetriamine—8th Report.
Formamide—10th Report.
Hexachloroethane—8th Report.
1,2,4-Trimethylbenzene—10th Report.
Tris (2-chloroethyl) phosphite—9th Report.

Although the ITC designated ethyltoluene (mixed isomers) for testing consideration, the Agency believes that it is necessary to acquire health and safety studies on the individual isomers to characterize adequately the mixed isomer product. For instance, a study cited by the ITC under "III. C. Other effects (physiological/behavioral/ecosystem processes)" presents data on p-ethyltoluene and o-ethyltoluene respectively. Thus, the Agency believes

that it is necessary, as the ITC did, to examine data developed on the individual isomers. Therefore, the Agency is requiring reporting of health and safety studies for the individual isomers as well as for the mixed ethyltoluenes.

Under the rule implementing section 8(d) of TSCA, manufacturers and processors of listed chemicals must submit unpublished health and safety studies on the chemicals. The Agency will use the studies to support its investigations of the risks posed by the chemicals and to support its decisions whether to require industry to test these chemicals under section 4 of TSCA.

Public Comments

EPA received comments from six persons in response to the proposed rule. EPA's responses are provided below.

Comment 1. The Agency indicated that it would not initiate rulemaking on hexachloroethane (HCE) under section 4(a) because of the small amounts of the substance which will be released into the environment. Therefore, hexachloroethane should not be made subject to the section 8(d) rule.

Response. The decision by EPA not to require testing of hexachloroethane (see 47 FR 18175) was based on the limited release of HCE to the environment, and on regulatory action in progress under the Resource Conservation and Recovery Act (RCRA).

However, because the human and environmental effects of HCE are not well characterized, the Agency has decided that unpublished health and safety studies should be acquired from manufacturers and processors of the substance. The information acquired will be used by EPA to characterize further the risks associated with the handling and disposal of HCE-containing wastes. The use of the section 8(d) rule is not limited to the support of test rule decisions under section 4 of TSCA. The Agency will use the rule to support its investigations of the risks posed by chemicals.

Comment 2. The Agency should rely on a program of section 4 Advance Notice of Proposed Rulemaking (ANPR) publications in lieu of the automatic listing of ITC-designated chemicals under 40 CFR 716.18(b). EPA would thus obtain timely and responsible assistance from interested parties. For example, the Agency's experience with voluntary submission of data in response to an ANPR on the phenylenediamine category of chemicals illustrates the value of this approach.

Response. At 47 FR 38784 EPA discusses its reasons why the automatic

addition to the rule of ITC-designated chemicals is warranted and why EPA will not rely solely on the voluntary submission of studies. Since the chemicals being added through this final rule were subject to public comment on the proposed rule amendment (47 FR 38800), the question of automatic addition of chemicals without notice and comment is not relevant to this action.

Comment 3. In response to the January 8, 1982, ANPR on the phenylenediamine category, industry submitted data on these chemicals. Subjecting phenylenediamines to this rule, many of which are of no commercial consequence whatsoever, illustrates the duplicative work and waste of resources which this rule will cause.

Response. EPA disagrees. The Agency has published an ANPR (47 FR 973) indicating its intention to initiate rulemaking under TSCA section 4(a) for 13 members of the phenylenediamine category. Full information on existing health and safety studies for the phenylenediamine category is needed by EPA to make further testing decisions and to determine if unreasonable risks are presented. Thus, EPA does not agree that reporting of such studies is unnecessary. Since there is interchangeability among the phenylenediamines for some uses, the Agency must take into account the possibility that if a particular commercial phenylenediamine is required to be tested, or found to be hazardous, it may be replaced by another phenylenediamine of little or no commercial importance that is poorly characterized toxicologically. Also, the section 8(d) rule does not require the submission of health and safety studies previously submitted to the Agency (see 40 CFR 716.11(b)). This rule is not duplicative of previous voluntary reporting of health and safety studies on these chemicals.

Comment 4. EPA should amend the final rule to exclude studies on mixtures which clearly do not reflect the effects of the listed substance. This is necessary so that manufacturers of complex mixtures marketed as consumer products are not required to undertake burdensome file searches for studies on mixtures that might contain a listed substance at very low levels, such as perfumes, colorants, etc. Rarely will useful conclusions be drawn from these studies, since they were neither designed nor conducted to address effects of the listed substance.

Response. During the October 4, 1982, to December 3, 1982, reporting period on the first five ITC lists and asbestos, EPA

became aware that for some companies searching for studies on mixtures containing listed substances posed a number of problems. These were mainly companies manufacturing and selling mixtures as consumer products. The primary problem was that companies were not always able to search their files with assurance that all the studies on mixtures containing listed substances would be found. This was because company indexing systems would retrieve studies by product name and possibly the major components, but not by each member of the mixture.

An additive which in turn contains a listed substance (a mixture containing a listed substance in a mixture), for instance, would not normally be found through company indexing systems. Thus, many companies believed that laborious, manual file searches would be necessary to comply with the rule. Agency guidance provided during the reporting period stated that such laborious searches were not necessary to comply with the rule. See "Questions and Answers about Reporting Under the TSCA Section 8(d) Health and Safety Reporting Rule" (November 10, 1982), which is available from the Office of Toxic Substances Industry Assistance Office.

After initial reporting is complete, the Agency will examine the studies submitted on mixtures containing listed substances. When this examination is complete, the Agency will evaluate the results and determine whether the reporting requirements on mixtures should be changed.

Comment 5. The section 8(d) rule appears to imply that all files on a given section 8(d) chemical held by a company would be subject to search, retrieval and submission, if not specifically exempted. For a chemical used in a non-TSCA regulated product exempt under TSCA section 3(2)(B)(vi) but also used in a TSCA-regulated product, the rule would appear to require that the files for both uses be searched. This is clearly neither the intent nor the purpose of TSCA. Only those files pertaining to chemical uses subject to TSCA must be searched.

Response. Section 716.6 of the rule specifies that persons subject to the rule must send to EPA copies of any non-exempt health and safety studies in their possession for the substances and designated mixtures listed in § 716.17. Persons are, therefore, required to submit any unpublished studies in their possession, with the exception noted below, if they manufacture or process a listed substance or mixture as defined in section 3 of TSCA. For instance, if a person manufactures a listed substance for a TSCA and non-TSCA use, that

person would be required to search for and submit copies of studies on that substance even if the study was done to investigate the risks posed by a non-TSCA use of the substance and was located at the site that manufactures the chemical for the non-TSCA use. The file search would extend to any files that in the ordinary course of business would be expected to contain studies on the substance. Since health studies are studies of effects of a substance, any study of an effect would be reportable. Also, it is possible that a company has in its possession studies performed by a university researcher who was investigating the carcinogenicity of a chemical that at the time of the study was used only as a pesticide. However, the company in possession of the studies manufactures the chemical solely for a TSCA use. Obviously, the company has in its possession studies on a subject chemical which, under § 716.6 of the rule, must be submitted.

Section 716.12 of the rule specifies that persons should "limit their search for the required information to records in which such information is expected to be found in the ordinary course of their business." Thus, for purposes of the section 8(d) rule, persons are required to search only those files which can reasonably be expected to contain information relating to the chemical substances and mixtures listed in § 716.17 of the rule.

Comment 6. For categories of chemical substances subject to 40 CFR 716.17, EPA should list all the members of the categories for which EPA wants reporting. EPA should not use examples for chemical categories.

Response. EPA agrees. The members of each category will be listed in the rule, with the exception of confidential entries on the TSCA Chemical Substance Inventory and new chemicals added to the TSCA Inventory after publication of the list. Thus, for this rule, persons will be responsible for reporting on: (1) Any substance or member of a category listed in 40 CFR 716.17(a)(3); (2) any member of a listed category that the person reported as confidential for the TSCA Inventory; and (3) any new chemical substance that is a member of a listed category but was not on the TSCA Inventory when the category was added to the list.

Comment 7. Three of the chemical substances listed on the proposed rule amendment are already listed on the final section 8(d) rule and should be deleted from the proposed list as being unnecessary. These chemicals are:

- (1) p-Diaminobenzene CAS No. 106-50-3; (2) Vinylidene fluoride CAS No.

75-38-7; (3) Vinyl fluoride CAS No. 75-02-5.

Response. EPA agrees. The three substances have been removed from the rule amendment.

Economic Impact

EPA estimates that the total cost to industry of submitting lists and copies of health and safety studies under the present rule is approximately \$264,000. This consists of the following:

Corporate Rule Review	\$29,000
Corporate Review (site identification)	35,000
File Search	67,000
Title Listing	3,000
Photocopying (materials)	4,000
Photocopying (labor)	13,000
Managerial Review	99,000
Ongoing Reporting	14,000
Total	264,000

If we assume ± 30 percent margin of error in these estimates the range of probable cost varies from \$185,000 to \$343,000. If the studies submitted allow EPA to eliminate even one potential section 4 mandated test on a subject chemical, the cost avoided could exceed the total cost of this rule. In addition, the studies submitted may help EPA identify public health and environmental problems which may require action by EPA to control or mitigate. Thus, the cost of this rule is low compared to the potential benefits.

Public Record

EPA has established a public record (docket number OPTS-84003B) for this rulemaking document which, along with a complete index, is available for inspection in the OPTS Reading Room, Rm. E-107 from 8:00 a.m. to 4:00 p.m. on working days (401 M Street, SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this rule. Following is a list of the documents which constitute the record for this rulemaking. Public comments on the proposed rule are not individually listed, but will be available upon request in the OPTS Reading Room. EPA requests that it be notified of any additions or deletions to this record within the next 30 days.

1. Health and Safety Study Reporting Regulations (40 CFR Part 716), Public Record, Docket No. 844003.
2. Reports Impact Analysis for 40 CFR Part 716 and this rulemaking.
3. Sixth through Tenth Reports of the Interagency Testing Committee (ITC); 45 FR 35897 (Sixth Report), 45 FR 78432 (Seventh Report), 46 FR 28138 (Eighth Report), 47 FR 5456 (Ninth Report), and 47 FR 22585 (Tenth Report).
4. Proposed Amendment to 40 CFR Part 716 (47 FR 38800).
5. All comments on this amendment.

Regulatory Assessment Requirements: Paperwork Reduction Act, Executive Order 12291, and Regulatory Flexibility Act

The final section 8(d) rule (40 CFR Part 716), published in the *Federal Register* of September 2, 1982 (47 FR 38780) has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The OMB control number is 2070-0004.

This amendment was submitted to OMB for review as required by Executive Order 12291.

This amendment will not have a significant economic impact on a substantial number of small entities. Based on our experience with a previous section 8(d) rule, we expect that only about 1 percent of the respondents will have gross sales of less than \$20 million. Further, approximately 90 percent are expected to have gross sales over \$100 million. Thus, of the approximately 174 companies expected to report under this rule, 157 are expected to have sales greater than \$100 million. Only two companies are expected to have gross sales under \$20 million. Therefore, in accordance with the Regulatory Flexibility Act (Pub. L. 96-354), EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 716

Chemicals, Health and safety, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements.

Dated: March 8, 1983.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

PART 716—[AMENDED]

Therefore, Title 40, Chapter I, is amended by adding § 716.17(a)(3) to read as follows:

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(3) As of April 29, 1983, the following chemical substances are subject to this subpart.

Substances and CAS numbers

Benzyl butyl phthalate, 85-68-7
Biphenyl, 92-52-4
Butyl glycolyl butyl phthalate, 85-70-1
Chlorendic acid, 115-28-6
4-Chlorobenzotrifluoride, 98-56-8
2-Chlorotoluene, 95-49-8
Diethylenetriamine, 111-40-0
Ethyltoluene

This category consists of ethyltoluene (mixed isomers) and the ortho-, meta-, and para-isomers.

Ethyltoluene (mixed isomers), 25550-14-5
o-Ethyltoluene, 611-14-3
m-Ethyltoluene, 620-14-4
p-Ethyltoluene, 622-96-8

Fluoroalkenes

This category is defined as fluoroalkenes of the general formula:



where n equals 2 or 3 and x equals 1 to 6.

As of March 30, 1983, this category includes, but is not limited to, the following four fluoroalkenes and any category members reported as confidential for the TSCA Inventory. Any substances fitting the category definition added to the TSCA Inventory after March 30, 1983, are also subject to this subpart.

Tetrafluoroethene, 116-14-3
Trifluoroethene, 359-11-5
Hexafluoropropene, 115-15-4
Trifluoromethylethane, 677-21-4

Formamide 75-12-7

Hexachloroethane 67-72-1

Phenylenediamines

This category is defined as all nitrogen-unsubstituted phenylenediamines and their salts with zero to two substituents on the ring selected from the same or different members of the group of halo, nitro, hydroxy, hydroxy-lower alkoxy, lower-alkyl, and lower alkoxy. For this purpose, the term "lower" is defined as a group containing between one and four carbons.

As of March 30, 1983, this category includes, but is not limited to, the following phenylenediamines and any category members reported as confidential for the TSCA Inventory. Any substances fitting the category definition added to the TSCA Inventory after March 30, 1983, are also subject to this subpart.

o-Diaminobenzene, 95-54-5
2,5-Diaminotoluene, 95-70-5
1,3-Diamino-4-methylbenzene, 95-80-7
o-Phenylenediamine, 4-chloro- 95-83-0
o-Phenylenediamine, 4-nitro- 99-56-9
m-Diaminobenzene 108-45-2
3,5-Diaminotoluene 108-71-4
2,4-Diaminophenol dihydrochloride 137-09-7
1,2-Diamino-4-methylbenzene 496-72-0
m-Phenylenediammonium dichloride 541-69-5
m-Phenylenediamine, sulfate (1:1) 541-70-8
m-Phenylenediamine, 4-methoxy-dihydrochloride 614-94-8
m-Phenylenediamine, 4-methoxy- 615-05-4
1,2-Phenylenediamine dihydrochloride 615-28-1
1,4-Benzenediamine, 2-methyl-, dihydrochloride, 615-45-2
p-Phenylenediamine, 2-chloro-, dihydrochloride, 615-46-3
2,5-Diaminotoluene sulfate, 615-50-9
p-Phenylenediamine dihydrochloride, 624-18-0
2,6-Diamino-1-methylbenzene, 823-40-5
o-Phenylenediamine, 4-ethoxy- 1197-37-1
1,2-Diamino-3-methylbenzene 2687-25-4
o-Phenylenediamine, 4-butyl- 3663-23-8

m-Phenylenediamine, 5-nitro- 5042-55-7
m-Phenylenediamine, 4-nitro- 5131-58-8
m-Phenylenediamine, 4-chloro- 5131-60-2
p-Diaminoanisole, 5307-02-8
p-Phenylenediamine, 2-nitro- 5307-14-2
m-Phenylenediamine, 2-nitro- 6219-67-6
p-Phenylenediamine, 2-chloro-, sulfate, 6219-71-2
o-Phenylenediamine, 4-nitro-, sulfate, 6219-77-8
1,4-Benzenediamine, 2-methyl-, sulfate, 6309-59-1
4,6-Diamino-o-cresol, 15072-73-8
p-Phenylenediamine sulfate, 16245-77-5
p-Phenylenediamine, 2-nitro-, dihydrochloride, 18266-52-9
p-Phenylenediamine, 2,5-dichloro- 20103-09-7
Diaminotoluene, 25376-45-8
2,4-Diaminoanisole sulfate, 39156-41-7
1,2-Benzenediamine, 5-chloro-3-nitro- 42389-30-0
1,4-Benzenediamine, ethanedioate (1:1), 62654-17-5
4,6-Diamino-2-methylphenol, hydrochloride, 65879-44-9
Ethanol, 2-(2,4-diaminophenoxy)-, dihydrochloride, 66422-95-5
1,3-Benzenediamine, 4-ethoxy-, dihydrochloride, 67801-06-3
1,3-Benzenediamine, 4-ethoxy-, sulfate (1:1), 68015-98-5
m-Phenylenediamine, 4-chloro-, sulfate, 68239-80-5
1,2-Benzenediamine, 4-nitro-, sulfate (1:1), 68239-82-7
1,4-Benzenediamine, 2-nitro-, sulfate (1:1), 68239-83-8
1,2-Benzenediamine, 4-chloro-, sulfate (1:1), 68459-98-3
1,3-Benzenediamine, ar-ethyl-ar-methyl, 68966-84-7
1,2,4-Trimethylbenzene, 95-63-6
Tris (2-chloroethyl) phosphite, 140-08-9
* * * * *

[FR Doc. 83-6303 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-60-M

40 CFR Part 761

[OPTS-62028; TSH-FRL 2242-2]

Polychlorinated Biphenyls (PCBs); Procedural Amendment of the Approval Authority for PCB Disposal Facilities and Guidance for Obtaining Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Procedural Rule Amendment and Statement of Policy.

SUMMARY: This procedural rule change gives the Assistant Administrator for Pesticides and Toxic Substances (Assistant Administrator) authority to approve certain PCB disposal facilities which previously have required approval from each Regional Administrator. The Assistant Administrator will be the approval authority for facilities which will be

operated in more than one region. The Regional Administrators will continue to have the authority to approve all unique, site-specific facilities such as landfills and stationary incinerators. The Regional Administrators also will continue to have the authority to approve all research and development (R and D) on PCB disposal methods involving less than 500 pounds of material, regardless of whether the disposal facility will be operated in more than one region. This amendment should provide better responsiveness to the needs of the public and industry. It does not change any standards for approving PCB disposal activities. In addition, EPA is providing supplemental guidance to assist persons applying for approval of PCB disposal technologies that are alternatives to incinerators and high efficiency boilers.

EFFECTIVE DATE: These amendments shall be effective on April 29, 1983.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Recodification of 40 CFR Part 761

Title 40 of the Code of Federal Regulations, Part 761, which regulates polychlorinated biphenyls (PCBs), has been reorganized and recodified. Notice of the reorganization and recodification appears in the Federal Register of May 6, 1982 (47 FR 19527). This rule amendment uses the following new designations:

Old designation	New designation
Subpart B, § 761.10	Subpart D, § 761.60.
Subpart D, § 761.31	Subpart B, § 761.30.
Subpart E, § 761.40	Subpart D, § 761.70.
Subpart E, § 761.41	Subpart D, § 761.75.
Subpart E, § 761.42	Subpart D, § 761.65.

II. Background

Section 6(e)(1)(A) of the Toxic Substances Control Act (TSCA) requires that EPA promulgate rules for the disposal of polychlorinated biphenyls (PCBs). The rules implementing section 6(e)(1)(A) were published in the Federal Register of May 31, 1979 (44 FR 31514) and recodified in the Federal Register of May 6, 1982 (47 FR 19527). (See Unit 1 of this preamble.) Those rules, among other things, generally require that various types of PCBs and PCB Articles be

disposed of in landfills or destroyed in incinerators, or in high efficiency boilers approved by EPA Regional Administrators in accordance with standards set forth in the rules. (See 40 CFR 761.60, 761.70, 761.75). The rules also provide that persons may obtain approval from the Regional Administrators for alternative methods of destroying PCBs if the alternative methods can achieve a level of performance equivalent to EPA approved incinerators or high efficiency boilers. (See 40 CFR 761.60(e)).

Regional Administrators were given sole authority to approve PCB disposal facilities. At that time site-specific technologies, such as incinerators, boilers or landfills, were the only available means of disposing of PCBs or destroying them. During the past year, in particular, EPA has been receiving applications for mobile and other types of destruction technologies that require approval in more than one region.

To improve management of permit procedures for PCB disposal activities, the Administrator has decided to transfer the review and approval authority of mobile and other PCB disposal techniques that are used in more than one region to the Office of Pesticides and Toxic Substances in Washington D.C. This transfer of approval authority should provide better responsiveness to the needs of the public and industry. The purpose of this amendment is to reduce the resource burden on EPA and affected parties by eliminating duplication of effort in the regional offices and to unify the Agency's approach to PCB disposal.

This procedural rule amendment does not change the Agency standards for approval of PCB disposal methods. It merely substitutes the Assistant Administrator for Pesticides and Toxic Substances for the Regional Administrators as an approval authority for certain facilities. Since this procedural amendment makes no substantive change to the existing PCB rule, no comment period is required or necessary for this rulemaking. The notice and comment procedures under 5 U.S.C. 553 are not applicable to procedural rules. Therefore, this amendment becomes effective on April 29, 1983.

The preamble to this rule also presents general notice of supplemental guidance for judging whether an alternative PCB destruction method should be approved under 40 CFR 761.60(e). This guidance has been generally used by regional administrators in the past and is

presented to assist applicants in submitting useful information.

III. Approval Authorities for PCB Disposal Activities

The following paragraphs specify the approval authority for various disposal activities. However, at the discretion of the Assistant Administrator, an application for approval may be assigned to another office if the application appears more suited for review in an office other than the one suggested below.

A. Landfills

Landfills for PCB materials will continue to be approved by the Regional Administrators.

B. Stationary and Mobile Incinerators

The operation of stationary incinerators will be approved by the Regional Administrators. Mobile incinerators and stationary incinerators of identical design that are intended to be used in more than one region will be approved by the Assistant Administrator, except for research and development involving less than 500 pounds of PCB material (see Part D of this unit). The Assistant Administrator may issue an approval that will be effective in all ten EPA regions.

C. Alternate Methods

The existing PCB regulations provide for the approval of methods which are alternatives to incineration. Alternate methods that are stationary and unique (site-specific design) will be approved by the appropriate Regional Administrator. Alternate methods that are mobile or will be used in more than one region will be approved by the Assistant Administrator, except for research and development involving less than 500 pounds of PCB material (see Part D of this unit). The Assistant Administrator may issue an approval which is effective in all ten EPA regions.

D. Research and Development

The EPA Regional Administrators will be the approval authority for R and D into PCB disposal methods, regardless of the type of method, that use 500 pounds total or less of PCB-contaminated material. Disposal of more than 500 pounds of total PCB or PCB-contaminated material for R and D purposes will be reviewed and approved by either the Assistant Administrator or an appropriate Regional Administrator based on the principles set out in A, B, C, and E of this unit of the preamble. EPA notes that R and D on PCB disposal is regulated using the disposal sections

of the PCB rule. See unit V of this preamble, "Research and Development" for a more complete explanation.

E. Others

Requests for approval of disposal facilities that are not covered under A, B, C, or D above should be sent to the Assistant Administrator. If an applicant is unsure about where to submit a request, it should be sent to the Assistant Administrator. The Assistant Administrator will assign the review and approval authority for these disposal facilities to the Office of Pesticides and Toxic Substances or the appropriate Regional Administrator.

IV. Supplemental Guidance

Section 40 CFR 761.70 of the PCB rule provides criteria and procedures for the approval of incinerators. 40 CFR 761.60(a)(2)(iii) provides criteria for the approval of high efficiency boilers. Thermal destruction technologies which do not comply exactly with the provisions of 40 CFR 761.70 may be approved under the waiver provision of that section [40 CFR 761.70(d)(5)]. In addition, destruction technologies may also be approved under the alternative technologies section of the PCB regulation (40 CFR 761.60(e)).

Section 40 CFR 761.60(e) does not provide specific guidance concerning the types of information that EPA requires to review alternative disposal methods. Therefore, EPA is taking this opportunity to provide this guidance.

The following guidance is applicable to most alternate PCB disposal activities, including R and D, but may be modified as appropriate to the specific activity at the discretion of the Regional Administrators or the Assistant Administrator. Although not noted here, site-specific considerations may also be involved in any PCB disposal facility approval.

1. The owner or operator of any alternate method should submit an application which contains the following (if applicable):

- (i) Name, address and phone number of the unit's principal manager.
- (ii) The location of the facility where the unit will be tested and the location where the unit will be stored and serviced when not engaged in testing.
- (iii) A detailed description of the unit including general plans and design drawings.
- (iv) An engineering report or other information on the anticipated performance of the unit.

(v) A sampling plan and quality assurance plan, including sampling and monitoring equipment and available facilities.

(vi) Waste volumes expected to be handled, process design capacity, process control, reagent-to-waste feed ratios, and safety features.

(vii) Any local, State or Federal permits or approvals.

(viii) Schedules and plans for complying with the approval requirements.

(ix) A contingency plan which describes steps taken in case of process failure, spill or overflow.

(x) Environmental impact, including process emissions, toxicity and disposal of process products, site relationships, and steps taken to protect the health of operators.

2. Following receipt of the application, EPA may determine that a process demonstration is required and will notify the person who submitted the report. The Assistant Administrator or Regional Administrator may require the submission of any other information that the EPA finds to be reasonably necessary to determine the need for a process demonstration. Such other information shall be restricted to the types of information required in the initial application. All pages containing proprietary information should be labeled "CONFIDENTIAL." Documents marked accordingly must be treated by the EPA as Confidential Business Information, unless a determination to deny the claim of confidentiality has been made by the General Counsel. In addition, a non-confidential version of the submission is required so that a copy of the application is available, if needed, for public review.

The following information should be submitted by persons who are asked to demonstrate their process for the Agency. EPA may request any additional testing or analysis which will help the reviewing officials determine the safety and efficiency of the process.

- (i) The time, date, and location of the process demonstration.
- (ii) The quantity and type of PCBs and PCB items to be processed.
- (iii) The parameters to be monitored and location of sampling points.
- (iv) A sampling plan and quality assurance plan, including sampling frequency and methods and schedules for sample analysis.

(v) The name, address and qualifications of persons who will review the analytical results and other pertinent data, and who will perform a technical evaluation of the effectiveness of the process demonstration.

3. At least thirty (30) days prior to conducting the process demonstration, the owner or operator of the process should give written notice of the demonstration to the state and local

governments within whose jurisdiction the demonstration is to take place.

4. Following receipt of the process demonstration plan, the Assistant Administrator or Regional Administrator will approve the plan, require additions or modifications to the plan, or disapprove the plan. If the plan is disapproved, the EPA will notify the person who submitted the plan of such disapproval, together with the reasons why it is disapproved. That person may, thereafter, submit a new plan in accordance with paragraph 2, above. If the new plan is approved (with any additions or modifications which EPA may prescribe), the EPA will notify the person who submitted the plan of the approval. Thereafter, the process demonstration, if necessary, shall take place at a date, time, and location to be agreed upon between the EPA and the person(s) who submitted the plan. The demonstration must satisfy all applicable requirements of 40 CFR Part 761, and supply any other pertinent data that aids EPA in reviewing these processes.

5. The Assistant Administrator or Regional Administrator will grant or deny approval for full scale operation based on a comprehensive review of the application package, demonstration results, and other submitted information. Approvals for operation will contain special conditions, if EPA finds them necessary to provide sufficient protection to human health or the environment.

6. Requests for approval must be sent to the Assistant Administrator for Pesticides and Toxic Substances or the appropriate Regional Administrator. The proper official can be determined under 40 CFR 761.60(e), and 761.70 (a) and (b) or under A, B, C, D, and E in unit II of this preamble. Addresses for these officials are listed as follows:

Document Control Officer (TS-793),
Office of Toxic Substances,
Environmental Protection Agency,
Room E-401, 401 M Street, SW.,
Washington, D.C. 20460

Region 1

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Regional Administrator, Region 1,
Environmental Protection Agency,
John F. Kennedy Federal Building,
Boston, Massachusetts 02203

Region 2

(New Jersey, New York)

Regional Administrator, Region 2,
Environmental Protection Agency, 26

Federal Plaza, New York, New York
10278

Region 3

(Delaware, District of Columbia,
Maryland, Pennsylvania, Virginia, West
Virginia)

Regional Administrator, Region 3,
Environmental Protection Agency, 6th
and Walnut Streets, Philadelphia,
Pennsylvania 19106

Region 4

(Alabama, Florida, Georgia, Kentucky,
Mississippi, North Carolina, South
Carolina, Tennessee)

Regional Administrator, Region 4,
Environmental Protection Agency, 345
Courtland Street, NE., Atlanta,
Georgia 30365

Region 5

(Illinois, Indiana, Michigan, Minnesota,
Ohio, Wisconsin)

Regional Administrator, Region 5,
Environmental Protection Agency, 230
South Dearborn Street, Chicago,
Illinois 60604

Region 6

(Arkansas, Louisiana, New Mexico,
Oklahoma, Texas)

Regional Administrator, Region 6,
Environmental Protection Agency,
First International Building, 1201 Elm
Street, Dallas, Texas 75270

Region 7

(Iowa, Kansas, Missouri, Nebraska)

Regional Administrator, Region 7,
Environmental Protection Agency, 324
East 11th Street, Kansas City,
Missouri 64106

Region 8

(Colorado, Montana, North Dakota,
South Dakota, Utah, Wyoming)

Regional Administrator, Region 8,
Environmental Protection Agency,
1860 Lincoln Street, Denver, Colorado
80295

Region 9

(Arizona, California, Hawaii, Nevada)

Regional Administrator, Region 9,
Environmental Protection Agency, 215
Fremont Street, San Francisco,
California 94105

Region 10

(Alaska, Idaho, Oregon, Washington)

Regional Administrator, Region 10,
Environmental Protection Agency,
1200 6th Avenue, Seattle, Washington
98101

V. Research and Development

Research is an investigation to discover or revise facts or theories. The present PCB rule authorizes the use of PCBs for R and D activities if the PCBs are packaged in 5.0 ml containers and used for scientific experimentation or analysis (40 CFR 761.30(j)). Therefore, R and D on disposal methods using PCBs in any other form constitutes disposal and is regulated using the disposal section of the PCB rule (40 CFR 761.60). In some cases, companies have conducted R and D on PCB disposal without the appropriate EPA region's awareness of their activities. Failure to obtain prior approval from EPA is a violation of the PCB disposal regulations. Persons already engaged in PCB disposal research that is not permitted pursuant to 40 CFR 761.30(j) and not approved by the appropriate EPA Regional Administrator must cease that research and obtain approval from the Regional Administrator before recommencing their research.

EPA recognizes that R and D for new methods of PCB disposal is desirable. To obtain approval to use PCB materials in quantities sufficient to develop new disposal methods (i.e. over 5.0 ml PCBs), researchers must apply to EPA and receive a letter of authorization before beginning their research. To the extent possible, all applications should contain the types of information required in unit III of this preamble and 40 CFR 761.70 of the PCB rule for approval of PCB disposal facilities.

VI. TSCA and RCRA Permits

PCB disposal facility permits are granted under the authority of the Toxic Substances Control Act (TSCA). The majority of the hazardous waste disposal permits are granted under the Resource Conservation and Recovery Act (RCRA). Although many facilities are capable of destroying wastes controlled under each of these statutes, the regulations presently require two individual permits. EPA anticipates integrating these regulations and is currently making an internal effort to assure that hazardous and toxic waste disposal permits contain the same essential conditions.

The TSCA rules for waste PCBs have been in place since 1978 and they are well understood by the regulated community. As of this writing, the RCRA rules are the subject of pending litigation. In addition, the RCRA rules are undergoing comprehensive regulatory impact analyses that may result in a number of regulatory amendments. Efforts to integrate the rules will resume after the major RCRA

litigation issues are resolved and the RCRA regulatory impact analyses are completed.

VII. Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

Under Executive Order 12291, issued February 17, 1981, EPA has determined that this amendment to the PCB rule is not a "major rule" as the term is defined in section 1(b) of the Executive Order. Therefore, no Regulatory Impact Analysis has been prepared for this amendment. This final rule amendment was submitted to the Office of Management and Budget (OMB) prior to publication in the Federal Register.

EPA has determined that the application requirements for the approval of PCB disposal activities constitute a "collection of information," as defined in the Paperwork Reduction Act (PRA) of 1980, 44 U.S.C. 3501. These requirements are set out in 40 CFR 761.60, 761.70, and 761.75 of the PCB rule. These sections of the PCB rule require the submission of information to EPA that is necessary to determine the capabilities and risks associated with PCB disposal activities. This information is necessary to insure proper disposal of PCBs without posing an unreasonable risk to human health or the environment.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0011.

The Regulatory Flexibility Act does not apply to rules that do not undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law.

VIII. Statutory Authority

Under section 6(e) of TSCA (15 U.S.C. 2605), the Administrator must promulgate rules to prescribe methods for the disposal of PCBs. The Administrator also has the authority to amend or modify the existing PCB disposal rules (40 CFR Part 761), published in the Federal Register of May 31, 1979 (44 FR 31514), and issue procedural rules and policy statements regarding the disposal regulations.

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements, Environmental protection.

Dated: March 21, 1983.

John W. Hernandez, Jr.,
Acting Administrator.

Therefore, 40 CFR Part 761 is amended as follows:

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS

1. In § 761.60 paragraph (e) is revised and paragraphs (i) (1) and (2) are added to read as follows:

Subpart D—Storage and Disposal

§ 761.60 Disposal requirements.

(e) Any person who is required to incinerate any PCBs and PCB items under this subpart and who can demonstrate that an alternative method of destroying PCBs and PCB items exists and that this alternative method can achieve a level of performance equivalent to § 761.70 incinerators or high efficiency boilers as provided in paragraph (a)(2)(iv) and (a)(3)(iv) of this section, may submit a written request to either the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances for an exemption from the incineration requirements of § 761.70 or § 761.60. Requests for approval of alternate methods that will be operated in more than one region must be submitted to the Assistant Administrator for Pesticides and Toxic Substances except for research and development involving less than 500 pounds of PCB material (see paragraph (i)(2)). Requests for approval of alternate methods that will be operated in only one region must be submitted to the appropriate Regional Administrator. The applicant must show that his method of destroying PCBs will not present an unreasonable risk of injury to health or the environment. On the basis of such information and any available information, the Regional Administrator or Assistant Administrator for Pesticides and Toxic Substances may, in his discretion, approve the use of the alternate method if he finds that the alternate disposal method provides PCB destruction equivalent to disposal in a § 761.70 incinerator or a § 761.60 high efficiency boiler and will not present an unreasonable risk of injury to health or the environment. Any approval must be stated in writing and may contain such conditions and provisions as the Regional Administrator or Assistant Administrator for Pesticides and Toxic Substances deems appropriate. The person to whom such waiver is issued

must comply with all limitations contained in such determination.

(i) *Approval authority for disposal methods.* (1) The officials (the Assistant Administrator for Pesticides and Toxic Substances and the Regional Administrators) designated in §§ 761.60 (e) and 761.70 (a) and (b) to receive requests for approval of PCB disposal activities are the primary approval authorities for these activities. Notwithstanding, the Assistant Administrator for Pesticides and Toxic Substances may, at his/her discretion, assign the authority to review and approve any aspect of a disposal system to the Office of Pesticides and Toxic Substances or to a Regional Administrator.

(2) Except for activity authorized under § 761.30(j), research and development (R and D) into PCB disposal methods using a total of less than 500 pounds of PCB material (regardless of PCB concentration) will be reviewed and approved by the appropriate EPA Regional Administrator and research and development using 500 pounds or more of PCB material (regardless of PCB concentration) will be reviewed by the approval authorities set out in §§ 761.60(e) and 761.70 (a) and (b).

2. In § 761.60 by revising the introductory text of paragraphs (a) and (a)(8), paragraphs (a)(7) and (9), the introductory text of paragraphs (b), (d) and (d)(1), paragraph (d)(2) (i) and (iii), the introductory text of paragraph (d)(2)(ii), and paragraph (d) (3), (4), (5) and (7) to read as follows:

§ 761.70 Incineration.

(a) *Liquid PCBs.* An incinerator used for incinerating PCBs shall be approved by an EPA Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances pursuant to paragraph (d) of this section. Requests for approval of incinerators to be used in more than one region must be submitted to the Assistant Administrator for Pesticides and Toxic Substances, except for research and development involving less than 500 pounds of PCB material (see section 761.60(i)(2)). Requests for approval of incinerators to be used in only one region must be submitted to the appropriate Regional Administrator. The incinerator shall meet all of the requirements specified in paragraph (a) (1) through (9) of this section, unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements which

may be prescribed pursuant to paragraph (d)(4) of this section.

(7) At a minimum monitoring and recording of combustion products and incineration operations shall be conducted for the following parameters whenever the incinerator is incinerating PCBs: (i) O₂; (ii) CO; and (iii) CO₂. The monitoring for O₂ and CO shall be continuous. The monitoring for CO₂ shall be periodic, at a frequency specified by the Regional Administrator or Assistant Administrator for Pesticides and Toxic Substances.

(8) The flow of PCBs to the incinerator shall stop automatically when any one or more of the following conditions occur, unless a contingency plan is submitted by the incinerator owner or operator and approved by the Regional Administrator or Assistant Administrator for Pesticides and Toxic Substances. The contingency plan indicates what alternative measures the incinerator owner or operator would take if any of the following conditions occur:

(9) Water scrubbers shall be used for HCl control during PCB incineration and shall meet any performance requirements specified by the appropriate EPA Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances. Scrubber effluent shall be monitored and shall comply with applicable effluent or pretreatment standards, and any other State and Federal laws and regulations. An alternate method of HCl control may be used if the alternate method has been approved by the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances. (The HCl neutralizing capability of cement kilns is considered to be an alternate method.)

(b) *Nonliquid PCBs.* An incinerator used for incinerating nonliquid PCBs, PCB Articles, PCB Equipment, or PCB Containers shall be approved by the appropriate EPA Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances pursuant to paragraph (d) of this section. Requests for approval of incinerators to be used in more than one region must be submitted to the Assistant Administrator for Pesticides and Toxic Substances, except for research and development involving less than 500 pounds of PCB material (see section 761.60(i)(2)). Requests for approval of incinerators to be used in only one region must be submitted to the appropriate Regional Administrator. The

incinerator shall meet all of the requirements specified in paragraph (b) (1) and (2) of this section unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements that may be prescribed pursuant to paragraph (d)(4) of this section.

(d) *Approval of incinerators.* Prior to the incineration of PCBs and PCB Items the owner or operator of an incinerator shall receive the written approval of the Agency Regional Administrator for the region in which the incinerator is located, or the Assistant Administrator for Pesticides and Toxic Substances. Approval from the Assistant Administrator for Pesticides and Toxic Substances may be effective in all ten EPA regions. Such approval shall be obtained in the following manner:

(1) *Application.* The owner or operator shall submit to the Regional Administrator or the Assistant Administrator an application which contains:

(2) *Trial burn.* (i) Following receipt of the application described in paragraph (d)(1) of this section, the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances shall determine if a trial burn is required and notify the person who submitted the report whether a trial burn of PCBs and PCB Items must be conducted. The Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances may require the submission of any other information that the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances finds to be reasonably necessary to determine the need for a trial burn. Such other information shall be restricted to the types of information required in paragraph (d)(1) (i) through (vii) of this section.

(ii) If the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances determines that a trial burn must be held, the person who submitted the report described in paragraph (d)(1) of this section shall submit to the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances a detailed plan for conducting and monitoring the trial burn. At a minimum, the plan must include:

(iii) Following receipt of the plan described in paragraph (d)(2)(ii) of this section, the Regional Administrator or

the Assistant Administrator for Pesticides and Toxic Substances will approve the plan, require additions or modifications to the plan, or disapprove the plan. If the plan is disapproved, the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances will notify the person who submitted the plan of such disapproval, together with the reasons why it is disapproved. That person may thereafter submit a new plan in accordance with paragraph (d)(2)(ii) of this section. If the plan is approved (with any additions or modifications which the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances may prescribe), the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances will notify the person who submitted the plan of the approval. Thereafter, the trial burn shall take place at a date and time to be agreed upon between the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances and the person who submitted the plan.

(3) *Other information.* In addition to the information contained in the report and plan described in paragraph (d)(1) and (2) of this section, the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances may require the owner or operator to submit any other information that the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances finds to be reasonably necessary to determine whether an incinerator shall be approved.

Note.—The Regional Administrator will have available for review and inspection an Agency manual containing information on sampling methods and analytical procedures for the parameters required in § 761.70(a) (3), (4), (6), and (7) plus any other parameters he/she may determine to be appropriate. Owners or operators are encouraged to review this manual prior to submitting any report required in § 761.70.

(4) *Contents of Approval.* (i) Except as provided in paragraph (d)(5) of this section, the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances may not approve an incinerator for the disposal of PCBs and PCB Items unless he finds that the incinerator meets all of the requirements of paragraphs (a) and/or (b) of this section.

(ii) In addition to the requirements of paragraphs (a) and/or (b) of this section, the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances may include in an approval any other requirements that

the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances finds are necessary to ensure that operation of the incinerator does not present an unreasonable risk of injury to health or the environment from PCBs. Such requirements may include a fixed period of time for which the approval is valid.

(5) *Waivers.* An owner or operator of the incinerator may submit evidence to the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances that operation of the incinerator will not present an unreasonable risk of injury to health or the environment from PCBs, when one or more of the requirements of paragraphs (a) and/or (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances may in his/her discretion find that any requirement of paragraphs (a) and (b) of this section is not necessary to protect against such a risk, and may waive the requirements in any approval for that incinerator. Any finding and waiver under this paragraph must be stated in writing and included as part of the approval.

(7) *Final Approval.* Approval of an incinerator will be in writing and signed by the Regional Administrator or the Assistant Administrator for Pesticides and Toxic Substances. The approval will state all requirements applicable to the approved incinerator.

[FR Doc. 83-8262 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1137

[Ex Parte No. 322 (Sub-No. 1)]

Revised Procedures for Divisions of Revenue Cases; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: At 48 FR 12105, March 23, 1983, the Commission modified its regulations governing the processing of division of revenue proceedings. That notice incorrectly refers to the section being revised as § 1137.1. This notice corrects that number to read § 1137.5.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: In the notice of final rules published at 48 FR 12105, correct the number § 1137.1 to read § 1137.5 wherever it appears, including the reference to that section in the amendatory language in the Appendix.

By the Commission, Agatha L. Mergenovich.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-8115 Filed 3-29-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 48, No. 62

Wednesday, March 30, 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 Part 59

Revision of the Denaturing or Decharacterizing Requirements for the Exportation of Egg Products Not Intended for Human Food

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations governing the mandatory inspection of eggs and egg products to permit the exportation of egg products not intended for human food which are not denatured or decharacterized. This action is proposed because current regulations deny access to foreign markets for U.S. nondenatured inedible egg products. The effect of permitting export of inedible egg products which are not denatured or decharacterized would be trade facilitation and expansion of foreign markets.

DATE: Comments must be received on or before May 31, 1983.

ADDRESS: Written comments may be mailed to D. M. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, Room 3944, South Agriculture Building, Washington, D.C. 20250. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: D. M. Holbrook, (202) 447-3506.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

An initial determination has been made that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for

consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed regulation has been reviewed for cost effectiveness under U.S. Department of Agriculture (USDA) Secretary's Memorandum 1512-1 implementing Executive Order 12291. It would revise the export prohibition on nondenatured inedible egg products to permit their shipment under similar controls provided for the movement of such products domestically. As such, it is anticipated that the proposed revisions would result in no monetary costs or other adverse impacts offsetting the expected benefits. Alternatively, the Agency could retain the existing restrictions or permit export without controls comparable to U.S. requirements; but the former would continue to deny access to foreign markets for nondenatured inedible egg products, and the latter could destroy markets for wholesome inspected products by creating the potential for fraudulent practices.

Effect on Small Entities

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action will not have a significant economic impact on a substantial number of small entities because it involves changes that facilitate trade, expand foreign markets, and enable U.S. firms to compete more favorably in foreign markets, but does not impose additional burdens on the affected industry.

Comments

Interested persons are invited to submit written comments concerning these proposed amendments. Comments must be sent in duplicate to the Standardization Branch and should bear a reference to the date and page number of this issue of the Federal Register. Comments submitted pursuant to this

document will be made available for public inspection in the Washington, D.C. Standardization Branch during regular business hours.

Background

The Egg Products Inspection Act restricts the movement in domestic or foreign commerce of U.S. egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations. The Regulations Governing the Inspection of Eggs and Egg Products (7 CFR Part 59) prohibit condemned or inedible egg products from being exported unless they are denatured or decharacterized. However, these regulations permit domestic movement of such egg products that are not denatured or decharacterized provided they are properly labeled, shipped under Government seal, and controlled at receiving points by Government inspection. Denatured or decharacterized products are rendered unuseable for certain nonhuman food uses. This provision opens domestic markets for nondenatured inedible egg products without jeopardizing the health and safety of the public, the market for edible inspected egg products, or the integrity of the inspection service. Since denatured inedible egg products cannot be used for certain industrial and animal food uses, this limits access to foreign markets for U.S. inedible egg products. Therefore, the Agency is proposing a revision to this prohibition.

Proposed Revisions

The Agency is proposing to amend the regulations governing the mandatory inspection of eggs and egg products (7 CFR Part 59) to permit exportation of inedible egg products which are not denatured or decharacterized under similar restrictions required for such egg products shipped domestically. These amendments would require: approval for importation of such product by authorized foreign government official(s), product identification as required by U.S. regulations, shipment under U.S. Government seal, receipt by U.S. or Foreign government official(s), and U.S. approval of control procedures established by foreign countries to preclude the use of such products as human food.

These amendments would facilitate and expand trade in foreign markets for U.S. inedible egg products. U.S. firms would be able to compete more favorably in foreign markets if the denaturant requirement—which is objectionable to many industrial and animal food users—were eliminated. Additionally, new foreign markets would become open to U.S. firms. To allow free trade, provision is also made for the possibility of importing such products into this country, although this appears largely unfeasible under current economic conditions.

The Agency considered two alternatives to the proposed action: maintain the status quo and permit exportation of nondenatured inedible egg products without controls comparable to U.S. requirements. The status quo alternative was found undesirable because the current regulations deny access to foreign markets for U.S. nondenatured inedible egg products. The other alternative suggesting less stringent controls for these egg products, while eliminating barriers of entry into foreign markets, was found unacceptable because of the potential harmful impact to the sale of edible U.S. egg products in foreign markets. Less than adequate controls of nondenatured inedible egg products would create the potential for substitution of these products as edible egg products and destroy markets for U.S. wholesome inspected products. Also, such substitution could create health hazards and damage the integrity of U.S. inspection programs as well as the reputation of other exported U.S. commodities. Therefore, the Agency chose the revision being proposed.

List of Subjects in 7 CFR Part 59

Shell eggs, Egg products, Mandatory inspection service.

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

In consideration of the foregoing, the proposed amendments to the regulations governing the mandatory inspection of eggs and egg products (7 CFR Part 59) are as follows:

Section 59.45 would be revised to read as follows:

§ 59.45 Prohibition on eggs and egg products not intended for use as human food.

(a) No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation in commerce, any eggs or egg products which are not intended for use as human

food, unless they are denatured or decharacterized, unless shipped under seal as authorized in paragraphs (c) and (d) of this section or in §§ 59.504(c) and 59.720(a) and identified as required by the regulations in this part.

(b) No person shall import or export shell eggs classified as loss, inedible, or incubator rejects or any egg products which are unwholesome, adulterated, or are otherwise unfit for human food purposes, except as provided in paragraph (c) and (d) of this section, unless they are denatured or decharacterized and identified as required by the regulations in this part.

(c) Egg products which are unwholesome, adulterated, or are otherwise unfit for human food purposes that are not denatured or decharacterized may be exported to foreign countries for industrial use or animal food under the following provisions:

(1) Authorized government official of the foreign country shall approve the importation of such products into that country.

(2) The egg products shall be shipped under U.S. Government seal and identified as required in § 59.840.

(3) Provisions for the control of such inedible product in the foreign country to preclude its use as human food must be established and approved by the Administrator. Such control may consist of, but not be limited to, receipt and inspection by an appropriate U.S. Government official, an official of an approved meat, poultry, or egg products inspection system of the foreign government, or, when acceptable to the Administrator, a foreign government official including other foreign health authorities.

(d) Foreign governments may petition the Administrator for approval to import into this country egg products which are unwholesome, adulterated, or otherwise unfit for human food purposes that are not denatured or decharacterized for industrial use or animal food requirements. Such products shall be subject to the provisions of this part and other applicable laws and regulations for importation into the United States.

(Egg Products Inspection Act, 84 Stat. 1620-1635; 21 U.S.C. 1031-1056)

Done at Washington, D.C., on: March 24, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

(FR Doc. 83-8105 Filed 3-29-83; 8:45 am)

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Group Licensing for Certain Medical Uses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations to add a device used for instantaneous imaging to its list of devices that may be used by licensed physicians. The hand-held device uses the low energy radiation emissions from an iodine-125 sealed source to produce images of bones or foreign bodies. NRC proposes to add the device to its list so that physicians, who are adequately trained and licensed to use similar devices, may use the device without having to amend their licenses.

DATES: Submit comments by April 29, 1983.

ADDRESSES: Send comments to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch. Hand deliver comments to: Room 1121, 1717 H Street NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m. Examine comments received, environmental assessment appraisal, regulatory analysis and other documents mentioned in this notice at: the NRC Public Document Room, 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Rodenbeck, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: (301)427-4560.

SUPPLEMENTARY INFORMATION: Physicians who wish to use certain radioactive materials in the practice of medicine may do so only in accordance with a license issued by the Nuclear Regulatory Commission (the Commission) or an Agreement State. Each group medical license specifies one or more groups of radioactive drugs, sources, devices or techniques which the physician's training and experience, facilities, equipment and radiation safety procedures equip the physician to safely use. These groups are published in the Commission's regulations at 10 CFR 35.100, "Schedule A—Groups of medical uses of byproduct material." The addition of a radiopharmaceutical, radioactive source, medical device or medical technique to one of these groups

allows a physician already permitted to use other drugs, sources, devices, or techniques in the group to use the new drug, source, device, or technique without having to amend the license. As new radiopharmaceuticals, radioactive sources, medical devices, and uses of radioisotopes are developed, the Commission considers their addition to one of the groups. The Commission is currently considering the addition of a medical device to the group of devices listed in § 35.100(f) of the regulations (Group VI). Group VI provides for the "use of sources and devices containing byproduct material for certain medical" activities. The hand-held device uses the low energy radiation emissions from an iodine-125 sealed source of up to 500 millicuries and fiber optics to produce a visible light image of the extremity of a person being examined. A key reason the device fits into Group VI of § 35.100(f) is because characteristics of the device resemble the bone mineral analyzer, which also contains an iodine-125 sealed source, and the strontium-90 ophthalmic applicator, which also is portable, both of which are listed in Group VI.

A similar device for industrial applications (such as nondestructive testing, quality control, security screening and radiation control management) has been evaluated by the Commission. The safety evaluation included chemical and physical form and amount of byproduct material; design and construction of the source or device; prototype tests of device integrity under normal and accidental stresses; radiation profile of a prototype device; device production quality control procedures; procedures and standards for calibrating sources; label design of radioactive content; and instructions for handling and storing the device. The evaluation suggests that the radiation dose to the operator of the device meets 10 CFR Part 20 requirements for safety. The Commission has found the device acceptable for industrial applications when used by appropriately trained personnel and, consequently, has issued a certificate of registration covering these industrial uses. (See NRC Certificate of Registration and Safety Analysis Summary 80-75.)

The same device has potential uses in medicine. These include the immediate screening and diagnosis of injuries to the hand, foot, ankle, wrist and elbow, and the detection of metallic or other foreign bodies in the hand or foot. Other orthopedic, pre-surgical, and dental applications are also possible. (See Tansey, "Low-intensity X-ray Imaging

Scope, Its Applications In Sports Medicine and Orthopaedic Surgery," *Am. Journ. Sports Med.*, Vol 9, No. 6, pp. 360-364, 1981.)

The device manufacturer has submitted a premarket notification to the Food and Drug Administration (FDA). (See 510(K) Application No. 82K0235.) FDA's Bureau of Radiological Health has determined the device to be substantially equivalent to medical devices marketed in interstate commerce prior to May 28, 1976, the enactment date of the Medical Device Amendments to the Federal Food, Drug and Cosmetic Act.

The Commission has requested its Advisory Committee on the Medical Uses of Isotopes (Advisory Committee) to consider whether Group VI licenses have adequate training, facilities and program controls to safely use the device and whether the radiation exposure to the patient is within the bounds of other types of currently accepted medical tests using radiation to provide similar diagnostic information. Commission evaluation of the device's radiation safety in consultation with the Advisory Committee is required for medical devices under the Commission's Statement of General Policy on "Regulation of the Medical Uses of Radioisotopes" (44 FR 8242, February 9, 1979). The Commission noted in the statement that it intended to minimize intrusion into areas traditionally considered to be part of the practice of medicine. It considers the choice of this device for diagnosis and the evaluation of its medical efficacy to be a matter of medical judgment. The Commission has not, as yet, received all of the Advisory Committee's comments, and intends to evaluate them together with the public comments.

Environmental Impact: Negative Declaration

The Commission has determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in 10 CFR Part 51, that promulgation of this proposed rule would not be a Federal action significantly affecting the quality of the human environment and that, therefore, an environmental impact statement is not required. (The environmental assessment appraisal and negative declaration on which this determination is based are available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C.)

Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et. seq.*).

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. (The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies of the analysis may be obtained from the person indicated under the FURTHER INFORMATION CONTACT heading.)

Comments on the draft analysis may be submitted to the Commission as indicated under the ADDRESSES heading.

Regulatory Flexibility Certification

The Commission has prepared an initial regulatory flexibility analysis in connection with this proposed rule. The analysis discloses that the approximately 350 Group VI medical licensees may experience some beneficial impact from the rule. The proposed rule would spare each of these licensees the cost of preparing a license amendment (estimated at about 2 to 5 hours of licensee effort to prepare the paperwork), the cost of administrative and clerical effort (estimated at \$335), the \$40 amendment fee, and the delay (length and cost undetermined) associated with the amendment of the license.

The Commission is particularly seeking comment from small entities (*i.e.*, small businesses, small organizations, and small jurisdictions as defined by the Regulatory Flexibility Act) about the ways the proposed rule will affect them and the ways it may be modified to impose less stringent requirements on them which will still adequately protect the public health and safety. Those small entities which offer comments on how the regulations could be modified to take into account their differing needs should specifically discuss:

(a) The size of their business and how the proposed regulations would result in a significant economic burden upon them as compared to larger organizations in the same business community;

(b) How the proposed regulations could be modified to take into account their differing needs or capabilities;

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulations were modified as suggested by the commenter;

(d) How the proposed regulations, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individuals or groups; and

(e) How the proposed regulations, as modified, would still adequately protect the public health and safety.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the following amendments to 10 CFR Part 35 are contemplated.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 162, 163, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273): §§ 35.2, 35.14 (b), (e) and (f), 35.21(a), 35.22(a), 35.24, and 35.31 (b) and (c) are issued under sec. 161(b), 68 Stat. 948, as amended 42 U.S.C. 2201(b); and §§ 35.14(b)(5) (ii), (iii) and (v) and (f)(2), 35.25 and 35.31(d) are issued under sec. 161e, 68 Stat. 950, as amended (42 U.S.C. 2201(e)).

2. Section 35.100 is amended by adding a new paragraph (f)(9) to read as follows:

§ 35.100 Schedule A—Groups of medical uses of byproduct material.

• • • • •

(f) • • •

(9) Iodine-25 as a sealed source in a portable device for bone imaging and foreign body detection.

Dated at Bethesda, Maryland, this 21st day of March 1983.

For the Nuclear Regulatory Commission,
William J. Dircks,
Executive Director for Operations.

[FR Doc. 83-8232 Filed 3-29-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 83-151]

FSLIC Insurance Premiums

Dated: March 17, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: Following review of comments received pursuant to an advance notice of proposed rulemaking, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), proposes regulation amendments that would: (1) Provide for the assessment of premiums of up to one-eighth of one percent of insured accounts, in addition to the current premium of one-twelfth of one percent, in order to cover losses and expenses of the FSLIC; (2) authorize premium rebates in amounts determined in accordance with insurance-risk criteria; and (3) conform the Board's regulations to recent amendments to the National Housing Act.

DATE: Comments must be received by: April 18, 1983.

ADDRESS: Comments should be sent to the Public Information Office, Federal Home Loan Bank Board, 1700 G Street N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Frank L. Evans (202-377-6620), Chief, Insurance Division, Office of the Federal Savings and Loan Insurance Corporation, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: On November 4, 1982, The Board issued an advance notice of proposed rulemaking that requested comment on a plan to increase the total level of premium collections in order to place the FSLIC fund on a sounder basis and to implement a rebate system in which higher-risk insured institutions would bear a larger burden of the costs of insurance than would those presenting a lower insurance risk (see 47 FR 51583, Nov. 16, 1982). The Board explained its concern that the current assessment of one-twelfth of one percent of insured accounts will not continue to produce adequate reserves to protect depositors at insured institutions, and cited the objectives of deregulation, safety and soundness, equity, and efficiency that would be served by instituting a risk-sensitive premium structure. In its advance notice the Board outlined a

proposal to increase premiums by up to one-eighth of one percent of insured accounts, pursuant to its authority to collect supplemental premiums under Section 404(c) of the National Housing Act (12 U.S.C. 1727(c)), and to declare rebates of those supplemental premiums in amounts determined in accordance with risk-related criteria. A tentative plan for criteria based on interest-rate risk exposure was also discussed in the notice.

During the comment period a total of 35 commenters responded to the notice, representing FSLIC-insured institutions (27), thrift trade associations (4), an FDIC-insured savings bank, a state bank regulator, a law firm, and an individual. After consideration of these comments, the Board has decided to propose a complete revision of § 563.15 of its regulations (12 CFR 563.15) to provide a framework for assessment of supplemental premiums and for risk-indexed variable-rate rebates. A discussion of the proposal and the Board's response to comments follows.

Assessment and Collection of Premiums

Few commenters disagreed with the Board's statement in its advance notice of proposed rulemaking that it may be necessary in the near future to assess supplemental premiums in order to maintain the primary reserve at a level adequate to cover future liabilities. Studies performed by the FSLIC since last November confirm the Board's conclusion. Reasonable economic assumptions and loss projections through 1987 indicate that the insurance fund will be heavily taxed by insured institutions requiring assistance. Without additional income from supplemental premium assessments FSLIC Net income will decline through fiscal year 1985, and losses are projected for fiscal years 1986 and 1987. The Board believes these considerations justify the adoption of a framework for supplemental premium assessments at this time, so that it will be possible to implement supplemental premiums at a later date should such action be warranted by projections in future months.

As revised pursuant to this proposal, § 563.15 would provide for the assessment and collection of both "base" and "supplemental" premiums, the former being the premiums equal to one-twelfth of one percent of insured accounts currently assessed by the FSLIC, and the latter being additional premiums of up to one-eighth of one percent of insured accounts assessed to recover losses and expenses of the FSLIC. As at present, premiums would

be paid by an institution upon receipt of its certificate of insurance and thereafter upon each anniversary of such date.

The proposed revision of § 563.15 would introduce the concept of a "premium year." The premium year suggested in the proposed regulation begins January 1 and ends December 31; the Board requests comment on whether other dates may be more appropriate. The level (in terms of a percentage of insured accounts) of the supplemental premiums and the criteria for premium rebates would remain fixed for the duration of the premium year for which they apply. Because all insured institutions would have one premium payment date in the course of a premium year, premium assessments and rebate criteria would be applied uniformly and equitably.

At least 120 days before the commencement of a new premium year, the FSLIC would publish for comment in the *Federal Register* a figure to be used in calculating the supplemental premiums to be assessed during the year. (The FSLIC would simultaneously publish rebate information, as discussed below.) This figure, referred to in the proposed regulation as the "supplemental premium rate," is the figure that, when multiplied by an institution's insured accounts, yields the supplemental premium due to the FSLIC for the year. For example, if the announced supplemental premium rate for a given premium year were one-twentieth of one percent, an institution with \$20 million in deposits would pay a supplemental premium of \$10,000. Prior to its premium payment date, each institution would receive a notice from the FSLIC of the base and supplemental premiums it owes. The rules for computation of premium assessments in the proposed regulation are the same as those currently found in § 563.15.

The proposed regulation sets forth two limitations upon the supplemental premium rate. Proposed § 563.15(d)(1) restates the requirement in section 404(c) of the National Housing Act (12 U.S.C. 1727(c)) that the supplemental premiums not exceed one-eighth of one percent of insured accounts. Proposed § 563.15(d)(2) states the additional statutory requirement that supplemental premiums collected not exceed the losses and expenses of the FSLIC.¹ The

¹ In accordance with this limitation, the maximum supplemental premium rate for a given premium year may be expressed by the formula where:

$$(A+B) - (C-D) + E$$

F

Board presently intends to increase the supplemental premium rate by no more than one-thirty-second of one percent each year in response to the primary concern of commenters that an immediate premium increase of as much as 150% might cause hardship for many institutions.

Calculation and Distribution of Premium Rebates

In its advance notice of proposed rulemaking the Board discussed the desirability of distributing risk-indexed premium rebates so that the net level of supplemental premiums paid by an insured institution would be related to the insurance risk posed by its condition and the business practices of its management. In addition, the Board outlined a tentative risk-rating model that focused on the vulnerability of institutions to a volatile interest-rate environment.

Commenters generally supported the concept of risk-indexed insurance premiums, agreeing that they would serve the objectives of deregulation, safety and soundness, equity, and efficiency. However, there was little agreement among commenters as to how risk criteria should be developed. The Board received numerous specific suggestions for refinement of its tentative initial risk-rating model. Other commenters criticized the model and advocated the development of different or additional criteria based on factors such as asset quality and management effectiveness. Some commenters opined that the Board should await the results of its study of insurance issues mandated by Section 712 of the Garn-St Germain Depository Institutions Act of 1982 before developing final risk-rating criteria.

The proposed regulation does not specify risk-rating criteria to be used; rather it sets forth proposed standards for developing rebate criteria and procedures for rebate disbursements. The Board expects that the development of rebate criteria will be an ongoing process, for risk-rating models will be further refined and new criteria will be developed as the FSLIC gathers and analyzes data on loss experience and factors relating to insurance risk. Consequently, the regulatory framework

A = all prior losses and expenses of the Corporation,

B = projected losses and expenses for the premium year,

C = prior supplemental premiums collected,

D = prior rebates distributed,

E = projected total rebates for the premium year, and

F = projected total of insured accounts on which premiums will be paid for the premium year.

for insurance premiums must be flexible enough to permit continuous revision of risk-rating models while providing for equitable treatment of insured institutions. The Board proposes to achieve these goals by specifying in its regulation the considerations that will be relevant to development of risk criteria and the procedures by which rebates will be declared and distributed, while permitting annual revision of the risk criteria by an advance notice and comment procedure. The Board notes that the proposed regulations would permit commencement of supplemental premium collections before development of a risk-indexed rebate program.

The proposed regulation provides that criteria developed by the FSLIC for calculation of rebates would be based on the insurance risk of the FSLIC. As the FSLIC attained experience with risk-rating, it would seek to quantify the risks posed by the business practices of insured institutions. If this goal is achieved, variable-rate premiums will less resemble penalties for risk-taking and will permit business conduct for which the probability of success outweighs the related risks, thus sumulating free-market pricing. The regulatory guidelines would not permit the application of risk-rating principles to produce a result contrary to any policies expressed in Title IV of the National Housing Act, such as the policy to encourage home mortgage lending.

The Board is currently considering an initial rebate plan that would provide for a rebate of part or all of the supplemental premium to each institution that has: (1) Conducted an analysis of the gap, if any, between the durations of its assets and liabilities; and (2) adopted a business plan specifying the institution's agenda for resolving deficiencies revealed in the gap analysis and other problems identified in the plan. The Board believes these two criteria would be appropriate initial criteria because the industry's asset-liability maturity mismatch is a primary source of insurance risk, and because these criteria would encourage remedial action by insured institutions. Subsequently developed criteria would measure with greater refinement exposure to interest-rate volatility and other sources of insurance risk identified through studies conducted by the Corporation. The Board requests comment on these two criteria merely for purposes of guidance in developing its policy relating to risk-related premium rebates; a more detailed notice would eventually be published for public comment at least 120 days before

implementation of the first rebate plan, as required by proposed § 563.15(e)(1), should the Board adopt the proposed rule.

The proposed procedures for declaration and disbursement of rebates are closely tied to the premium assessment rules discussed above. Rebate amounts would be expressed as a percentage of the supplemental premium, and rebate criteria would be declared at the same time as the announcement of the supplemental premium rate, at least 30 days before the commencement of the premium year. However, no final criteria would be declared until after an opportunity for public comment. At the time an institution pays its premiums, it would submit any additional information necessary to determine the rebate to which it is entitled, and the FSLIC would disburse the rebate within 90 days of the institution's following premium payment date.

Technical Amendments

The Board proposes to amend 12 CFR 563.15 to accommodate a recent amendment to Section 404 of the National Housing Act. Section 126 of the Garn-St Germain Depository Institutions Act of 1982 added a new paragraph (h) to Section 404 to provide that the FSLIC may terminate distributions of the secondary reserve if it finds that extraordinary financial conditions exist increasing the risk to the Corporation. Rather than repeat this proviso as a new amendment to 12 CFR 563.15, consistent with its policy to streamline its regulations the Board proposes merely to cross-refer to Section 404 in the text of the regulation. This cross-reference would permit the elimination of other regulatory provisions dealing with limitations on the primary and secondary reserve that merely repeat provisions in Section 404.

The Board requests comment on all aspects of the proposed regulations described here, and continues to solicit suggestions regarding appropriate criteria on which risk-indexed premium rebates should be based. The Board has determined that a comment period of thirty days is appropriate because the Board has already solicited and received public comment on the subject matter covered in this proposal.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act (5 U.S.C. Ch. 6), the Board provides the following initial regulatory flexibility analysis:

1. *Reasons, objectives, and legal basis underlying the proposed rule.* These elements have been incorporated

elsewhere into the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply only to FSLIC-insured institutions.

3. *Impact of the proposed rule on small institutions.* The proposal would not have a disproportionate impact on small institutions, as the cost of insurance premiums under the proposed rule would continue to be a function of the amount of insured accounts at an institution. Furthermore, the proposal would not involve any new reporting or compliance costs that could impose a disproportionate burden on small institutions. Finally, asset size is not a factor that would be considered in calculating rebates under the proposed rule.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the proposal.

5. *Alternatives to the proposed rule.* The Board is not aware of any alternatives that would have less impact on small institutions; but it requests comments on this issue.

Regulatory Analysis

The elements of regulatory analysis required for major proposed regulations by Board Resolution No. 80-584 of September 11, 1980, have been incorporated elsewhere in the supplementary information.

List of Subjects in 12 CFR Part 563

Savings and loan associations.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Accordingly, the Board hereby proposes to amend Part 563 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

Revise § 563.15 as follows:

§ 563.15 Insurance premiums.

(a) *Definitions.* For purposes of this section:

(1) "Premium payment date" means the date of issuance of the certificate of insurance for an insured institution and each anniversary of such date.

(2) "Premium year" means the period beginning January 1 and ending on the following December 31.

(3) "Base premium" means one-twelfth of one percent of all insured accounts of an institution.

(4) "Supplemental premium" means the supplemental premium rate declared

for a premium year multiplied by all insured accounts of an institution.

(5) "Supplemental premium rate" means a number computed by the Corporation in accordance with paragraph (d) of this section.

(b) *Assessment and collection of premiums.* At least 120 days prior to the beginning of each premium year, the Board will publish a notice in the *Federal Register* requesting comment on the proposed supplemental premium rate applicable for the premium year. The final supplemental premium rate adopted by the Board will be published at least 30 days prior to the beginning of the premium year. Each insured institution will receive in advance of its premium payment date a statement of the base and supplemental premiums due. Each institution shall pay its base and supplemental premiums on or before its premium payment date.

(c) *Computation of premiums.* (1) The base and supplemental premiums payable by an insured institution shall be determined on the basis of the most recent report filed by the institution with the Corporation. Any institution that has not filed a report within 60 days prior to its premium payment date shall report more current information if requested by the Corporation to do so.

(2) Any amount contained in a report covering interest accrued, or dividends declared, but not due and payable, upon an account of an insured member shall not be included in the Corporation's computation of premiums.

(3) The total amount of a tax and loan account, a United States Treasury General Account, or a United States Treasury Time Deposit—Open Account shall be the average daily balance in such account since the institution's last premium payment date.

(d) *Limitations on supplemental premiums.* (1) The supplemental premium rate applicable for a premium year shall not exceed one-eighth of one percent.

(2) Total supplemental premiums collected by the Corporation in all premium years shall not exceed total actual losses and expenses (plus those projected for the premium year) of the Corporation, as determined by the Corporation.

(e) *Premium rebates.* (1) *Procedure.* The rebate (expressed as a percentage of the supplemental premium), if any, applicable for a premium year, and criteria upon which payment of the rebate will depend, will be published in the *Federal Register* notices required by paragraph (b) of this section. Each insured institution shall submit on or before its premium payment date, or a

later date determined by the Corporation, any information requested by the Corporation for purposes of determining the applicable rebate amount. The Corporation will pay to an institution its rebate not later than 90 days after the institution's following premium payment date. The Corporation will not pay a rebate prior to payment in full of premiums owed by an institution.

(2) *Standards for development of rebate criteria.* Rebate criteria shall be based on the Corporation's evaluation of the insurance risks posed by business practices of insured institutions, particularly those risks within the control of management. Criteria published pursuant to paragraph (e)(1) shall be sufficiently clear and specific to permit each insured institution to calculate its rebate. No rebate plan shall contravene the purposes underlying Title IV of the National Housing Act.

(f) *Limitation on primary reserve; distribution of secondary reserve.* Provisions relating to the discontinuation of premiums when the primary reserve equals or exceeds two percent of all insured accounts and to distribution of shares of the secondary reserve may be found at Section 404(c), (d), and (h) of the National Housing Act (12 U.S.C. 1727(c), (d), (h)).

(12 U.S.C. 1724-28, 1730; Pub. L. 91-151 of Dec. 23, 1969, sec. 6 (83 Stat. 396); Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 83-8135 Filed 3-29-83; 8:45 am]
BILLING CODE 6720-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Services for Retired Persons—Request for Comments

AGENCY: National Credit Union
Administration (NCUA).

ACTION: Proposed interpretive ruling and
policy statement; request for comments.

SUMMARY: The NCUA Board requests comments on whether it should revise NCUA's policies with respect to membership in Federal credit unions in order to provide Federal credit unions the ability to offer membership to retired persons in the credit union's locale because credit union members often experience difficulty obtaining continuing Credit Union service upon retirement.

DATE: Comments must be received by:
June 27, 1983.

ADDRESS: Send comments to Secretary
of the NCUA Board, 1776 G Street, NW.,
Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:
Harvey J. Baine, III, Regional Director,
Region II, Suite 700, 1776 G Street NW.,
Washington, D.C. 20006. Telephone (202)
682-1900, or Robert Fenner, Director,
Department of Legal Services, 1776 G
Street NW., Washington, D.C. 20456.
Telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION: Credit
union members often experience
difficulty obtaining continuing credit
union service upon retirement. This can
result either from the fact that the retiree
is no longer in the credit union's field of
membership or from the fact that the
retiree has moved to a new residence
that is not near the credit union. Many
credit unions have addressed the first
situation by adopting a "once a member,
always a member" policy, as authorized
by the standard Federal Credit Union
Bylaws. Others have recently suggested
that a more complete solution,
addressing both concerns, would be for
NCUA to revise its chartering policies to
authorize Federal credit unions to offer
membership to retired persons in the
credit union's locale.

Such a proposal would be consistent
with current NCUA chartering policies,
as expressed in NCUA Interpretive
Ruling and Policy Statement 82-3 (47 FR
26808) which authorizes and establishes
the conditions for inclusion by a Federal
credit union of more than one distinct
group in its field of membership. The
proposal would require a finding by the
NCUA Board that retired persons
constitute a group within the meaning of
Section 109 of the Federal Credit Union
Act (12 U.S.C. 1759) which limits Federal
credit union membership to "groups
having a common bond of occupation or
association, or to groups within a well
defined neighborhood, community, or
rural district."

Because of the various issues that
arise in connection with this proposal,
the NCUA Board is requesting comment
prior to adopting a final policy. The
Board requests comment in response to
the following specific questions and any
other relevant issues:

Is it generally advisable as a matter of
policy to authorize Federal credit unions
to include retired persons living within a
credit union's service area in the credit
union's field of membership?

If the policy is approved, should an
exclusion clause be utilized, excluding
for example individuals already
receiving credit union services from a
credit union in the vicinity of their

residence? Or, excluding individuals
eligible for membership, other than
through a retiree clause, in a credit
union in the vicinity of their residence?

If the policy is adopted, how should it
define retiree? Retiree might be defined,
for example, as "any person receiving
annuity, pension, social security, or
similar retirement payments from
private or government sources, or
anyone over age 60".

List of Subjects in 12 CFR Part 701

Credit unions.

By the National Credit Union Board on
March 21, 1983.

Rosemary Brady,
Secretary of the National Credit Union
Administration Board.

[FR Doc. 83-8142 Filed 3-29-83; 8:45 am]

BILLING CODE 7535-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-19595; File No. S7-965]

Regulation U, Exempt Credit Provisions; Rescinding of Rules and Related Forms

AGENCY: Securities and Exchange
Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes
rescinding three rules and their related
forms under the Securities Exchange Act
of 1934 ("Act") which implement the
exempt credit provisions of Regulation
U under the Act. In addition, the
Commission proposes adopting a single
definitional rule, Rule 3b-8 under the
Act, which would define certain terms
necessary to the proper functioning of
the exempt credit provisions of
Regulation U relating to extension of
credit by banks to broker-dealers for the
purpose of purchasing or carrying
margin stocks. The proposed action is
intended to complement certain
amendments to Regulation U proposed
by the Board of Governors of the
Federal Reserve System.

DATE: Comments to be received on or
before April 29, 1983.

ADDRESSES: All comments should be
submitted in triplicate and addressed to
George A. Fitzsimmons, Secretary,
Securities and Exchange Commission,
450 Fifth Street, N.W., Washington, D.C.
20549. All comments should refer to File
No. S7-965 and will be available for
public inspection at the Commission's
Public Reference Room, 450 Fifth Street,
N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: William W. Uchimoto, (202) 272-2409, Room 5193, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background

Regulation U under the Securities Exchange Act of 1934 ("Act")¹ regulates the extension of credit by banks to broker-dealers for the purpose of purchasing or carrying margin stocks. Pursuant to the OTC Market Maker Exemption,² Qualified Third Market Maker Exemption³ and Block Positioner Exemption⁴ of Regulation U, banks may extend credit exempt from the requirements of Regulation U to broker-dealers meeting the criteria of those exemptions ("exempt credit"). The exemptions, adopted by the FRB, require those seeking exempt credit to file reports "as required pursuant to a rule of the Commission." Accordingly, the Commission has adopted Rules 17a-12,⁵ 17a-16⁶ and 17a-17,⁷ and related Forms X-17a-12 (1) and (2), X-17a-16 (1) and (2), and X-17a-17, to oversee compliance with respect to those receiving exempt credit pursuant to Regulation U.

Specifically, Rule 17a-12 implements the provisions of the OTC Market Maker Exemption of Regulation U. The Rule defines "OTC Market Maker" and requires those broker-dealers who apply for OTC Market Maker exempt credit on any "OTC Margin Security"⁸ to file Forms X-17a-12 (1) and (2). A broker-dealer applying for OTC Market Maker exempt credit must notify the Commission on Form X-17a-12 (1) whenever it commences or ceases making a market in an OTC Margin Security. Moreover, should a broker-dealer receive OTC Market Maker exempt credit, it must report to the Commission the amount of such credit that it has outstanding at the end of the quarter on Form X-17a-12 (2).

Rule 17a-16 implements the provisions of the Qualified Third Market Maker Exemption of Regulation U. The Rule defines the term "Qualified Third Market Maker" and requires those broker-dealers who apply for Third Market Maker exempt credit on any security that is listed on a national securities exchange to file Forms X-17a-16 (1) and (2). A broker-dealer applying for Qualified Third Market Maker exempt credit must notify the Commission on Form X-17a-16 (1). Moreover, should a broker-dealer receive Qualified Third Market Maker exempt credit, it must report the amount of such credit that it has outstanding at the end of the quarter on Form X-17a-16 (2).

Rule 17a-17 implements the provisions of the Block Positioner Exemption of Regulation U. The Rule defines "Block Positioner" and requires those broker-dealers applying for Block Positioner exempt credit to notify the Commission, and requires those receiving such credit to file Form X-17a-17 with the Commission. Form X-17a-17 requires a recipient of Block Positioner exempt credit to report, among other things, the amount of Block Positioner exempt credit that it held at the beginning and at the end of the quarter as well as the total amount of credit that was extended to it during the quarter.

II. Discussion

While the Commission continues to believe that it is essential that there be vigorous policing of exempt credit under Regulation U, it also believes that the current scheme of regulation has proven to be costly and inefficient. In this respect, the Commission notes that the filing requirements of the rules impose a continuing financial cost on broker-dealers because they require frequent filings and some of the forms necessitate relatively lengthy quarterly calculations. The Commission believes that these compliance costs are no longer offset by any substantial regulatory benefits because compliance with the rules is primarily ensured through inspections by the Commission and self-regulatory organizations and is not dependent on routine use of the completed forms.

The Commission, however, is not in a position to rescind these rules and forms as long as Regulation U requires broker-dealers applying for exempt credit to comply with Commission filing requirements. In this respect, at the request of the Commission, the FRB has proposed amending Regulation U to remove the requirement that broker-dealers receiving exempt credit file

reports with the Commission.⁹ The FRB, also in response to a request by the Commission, has proposed amending Regulation U to refer to a single Commission rule which would function solely to define the terms "Qualified OTC Market Maker," "Qualified Third Market Maker" and "Qualified Block Positioner" for the exempt credit provisions of Regulation U.¹⁰

To coincide with the FRB's proposed amendments to Regulation U, the Commission is proposing to rescind Rules 17a-12, 17a-16 and 17a-17 and related Forms X-17a-12 (1) and (2), X-17a-16 (1) and (2), and X-17a-17. In addition, the Commission is proposing to adopt Rule 3b-8 under the Act which would define the terms "Qualified OTC Market Maker," "Qualified Third Market Maker" and "Qualified Block Positioner" for purposes of the FRB's proposed amendments to Regulation U. Although the definitions contained in proposed Rule 3b-8 are substantively identical to the definitions currently contained in Rules 17a-12, 17a-16 and 17a-17, the proposed rule contains certain minor language changes to reflect past amendments to Rule 15c3-1 under the Act.

III. Summary of the Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("Analysis") in accordance with 5 U.S.C. 603 regarding the proposed rescission of Rules 17a-12, 17a-16 and 17a-17, and the proposed adoption of Rule 3b-8.

The Analysis notes that a substantial number of small broker-dealers,¹¹ who might seek OTC Market Maker or Qualified Third Market Maker exempt credit, would be relieved from significant reporting burdens should Rules 17a-12 and 17a-16 be rescinded. In this regard, the rescission of these rules could have a significant positive economic impact on a substantial number of small entities.

The Analysis also notes that the proposed rescission of Rule 17a-17 would not have a significant economic impact on a substantial number of small

¹ 12 CFR 221. Regulation U was last amended by the Board of Governors of the Federal Reserve System ("FRB") in Docket No. R-0372 (May 12, 1982), 47 FR 21756.

² 12 CFR 221.3(w).

³ 12 CFR 221.3(y).

⁴ 12 CFR 221.3(z).

⁵ 17 CFR 240.17a-12. Rule 17a-12 was last amended in Securities Exchange Act Release No. 8762 (September 12, 1972), 37 FR 18717.

⁶ 17 CFR 240.17a-16. Securities Exchange Act Release No. 9760 (September 12, 1972), 37 FR 18718.

⁷ 17 CFR 240.17a-17. Securities Exchange Act Release No. 9761 (September 12, 1972), 37 FR 18720.

⁸ An "OTC Margin Security" is defined in Regulation U as a security which is not listed on a national securities exchange and which is on a list published by the FRB.

⁹ See proposed FRB rule change, Docket No. R-0458 (February 23, 1983), 48 FR 8470.

¹⁰ *Id.*

¹¹ The Commission has adopted definitions of the term "small entity" for purposes of Commission rulemaking in accordance with the Regulatory Flexibility Act. Those definitions, as relevant to the proposed rulemaking, are set forth in Rule 0-10, 17 CFR 240.0-10. See Securities Exchange Act Release No. 18457 (January 28, 1982), 47 FR 5215. A broker-dealer is a "small business" or "small organization" under Rule 0/10 if, among other things, it has total capital of less than \$500,000 during the preceding fiscal year.

entities as that Rule does not apply to any broker-dealer who the Commission has defined to be a small entity.¹² In addition, proposed Rule 3b-8 would not have a significant economic impact on a substantial number of small entities because proposed Rule 3b-8, if adopted, would recodify certain definitions contained in Rules 17a-12, 17a-16 and 17a-17.

The Commission is soliciting comment on the precise impact of the proposed rule rescissions and the proposed rule. A copy of the Analysis may be obtained by contacting William W. Uchimoto, (202) 272-2409, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.

List of Subjects in 17 CFR Parts 240 and 249

Reporting requirements, Securities.

IV. Text of Proposed Amendment

Accordingly, the Commission proposes to amend Chapter II of Title 17 of the Code of Federal Regulations, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94-29 (June 4, 1975)), particularly Sections 2, 3, 11, 15, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78k, 78o, 78q and 78w), as follows:

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

§§ 240.17a-12, 240.17a-16 and 240.17a-17 [Removed]

1. By removing §§ 240.17a-12, 240.17a-16 and 240.17a-17.
2. By adding § 240.3b-8 to read as follows:

§ 240.3b-8 Definitions of "Qualified OTC Market Maker," "Qualified Third Market Maker" and "Qualified Block Positioner."

For the purposes of Regulation U under the Act (12 CFR 221):

(a) The term "Qualified OTC Market Maker" in an over-the-counter ("OTC") margin security means a dealer in any "OTC Margin Security" (as that term is defined in Section 2(j) of Regulation U (12 CFR 221.2(j))) who: (1) Is a broker or dealer registered pursuant to Section 15 of the Act, (2) is subject to and is in compliance with Rule 15c3-1 (17 CFR 240.15c3-1), (3) has and maintains minimum net capital, as defined in Rule 15c3-1, of the lesser of (i) \$250,000 or (ii) \$25,000 plus \$5,000 for each security in

excess of five, and (4) except when such activity is unlawful, meets all of the following conditions with respect to such security: (i) He regularly publishes bona fide, competitive bid and offer quotations in a recognized inter-dealer quotation system, (ii) he furnishes bona fide, competitive bid and offer quotations to other brokers and dealers on request, (iii) he is ready, willing and able to effect transactions in reasonable amounts, and at his quoted prices, with other brokers and dealers, and (iv) he has a reasonable average rate of inventory turnover in such security.

(b) The term "Qualified Third Market Maker" means a dealer in any stock registered on a national securities exchange ("exchange") who: (1) Is a broker or dealer registered pursuant to Section 15 of the Act, (2) is subject to and is in compliance with Rule 15c3-1 (17 CFR 240.15c3-1), (3) has and maintains minimum net capital, as defined in Rule 15c3-1, of the lesser of (i) \$500,000 or (ii) \$100,000 plus \$20,000 for each security in excess of five, and (4) except when such activity is unlawful, meets all of the following conditions with respect to such security: (i) He furnishes bona fide, competitive bid and offer quotations at all times to other brokers and dealers on request, (ii) he is ready, willing and able to effect transactions for his own account in reasonable amounts, and at his quoted prices with other brokers and dealers, and (iii) he has a reasonable average rate of inventory turnover in such security.

(c) The term "Qualified Block Positioner" means a dealer who: (1) Is a broker or dealer registered pursuant to Section 15 of the Act, (2) is subject to and is in compliance with Rule 15c3-1 (17 CFR 240.15c3-1), (3) has and maintains minimum net capital, as defined in Rule 15c3-1 of \$1,000,000 and (4) except when such activity is unlawful, meets all of the following conditions: (i) He engages in the activity of purchasing long or selling short as principal, from time to time, from or to a customer (other than a partner or a joint venture or other entity in which a partner, the dealer, or a person associated with such dealer, as defined in Section 3(a)(18) of the Act, participates) a block of stock with a current market value of \$200,000 or more in a single transaction, or in several transactions at approximately the same time, from a single source to facilitate a sale or purchase by such customer, (ii) he certifies to the lending bank that he has determined in the exercise of reasonable diligence that the block could not be sold to or purchased from others on equivalent or better terms, and (iii) he sells the shares comprising the

block as rapidly as possible commensurate with the circumstances.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§§ 249.619, 249.620, 249.631, 249.632 and 249.633 [Removed]

3. By removing §§ 249.619, 249.620, 249.631, 249.632 and 249.633.

By the Commission.
George A. Fitzsimmons,
Secretary.
March 14, 1983.

[FR Doc. 83-7855 Filed 3-29-83; 6:45 am]
BILLING CODE 8010-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[OPP-30066 A; PH-FRL 2332-8]

Regulations for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking. Extension of comment period.

SUMMARY: EPA issued a notice of proposed rulemaking, which published in the Federal Register of December 27, 1982 (47 FR 57635), which addressed the implementation of the data use and compensation provisions of sec. 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The proposed regulations closely resemble the current regulations (40 CFR 162.9-1 through 162.9-8) which, among other things, require that most applicants for pesticide registrations cite all relevant data in the Agency's files. However, the U.S. District Court for the District of Columbia recently held that this mandatory "cite-all" approach is contrary to the provisions of FIFRA. This notice provides information concerning the court decision and further solicits public comment regarding alternative means of implementing FIFRA's data use and compensation provisions. In addition, this notice extends the period for comment on the proposal.

DATE: Written comments on the December 27, 1982 proposal, as supplemented by this notice, must be submitted on or before May 16, 1983.

ADDRESS: Submit written comments to: Program Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm.

¹² Rule 17a-17 does not apply to small entities because only those broker-dealers maintaining minimum net capital of at least \$1,000,000 can qualify for Block Positioner exempt credit.

236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments should bear the identifying notation OPP-30066A. The

administrative record supporting this action is available for public inspection in Rm. 236 at the address noted above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Edward C. Gray, Office of General Counsel (LE-132P), Environmental Protection Agency, Rm. W-535E, 401 M Street SW., Washington, DC 20460 (202-382-7505).

SUPPLEMENTARY INFORMATION:

EPA issued a notice of proposed rulemaking concerning the implementation of FIFRA's data use and compensation provisions, which was published in the Federal Register of December 27, 1982 (47 FR 57635). That notice set forth proposed regulations to replace those which had been invalidated by the U.S. Court of Appeals for the Third Circuit because the Court determined that they had been promulgated without full compliance with the procedural requirements of the Administrative Procedure Act. The proposed regulations largely paralleled the Agency's previous regulations and retained the mandatory "cite-all" approach to pesticide registration. The notice, however, specifically requested comments addressing any alternative regulatory scheme which would permit EPA to evaluate applications for registration of pesticides efficiently while adequately protecting the rights of data submitters. A full explanation of the pesticide registration process, the Third Circuit court decision, and the proposed regulation was set forth in the December 27, 1982 proposal.

After the publication of the proposed rule, another court found the mandatory cite-all regulations invalid, this time on substantive grounds. The U.S. District Court for the District of Columbia, in the case of *National Agricultural Chemicals Association v. EPA*, CA #79-2063 (January 20, 1983), enjoined the Agency from

... rejecting an application for registration of a pesticide, pursuant to section 3(c) of FIFRA, on the ground that the applicant has only submitted "a full description of the tests made and the results thereof upon which the claims are based," as long as the data submitted by the applicant meets the statutory criteria for registration.

Under this decision, EPA may continue processing applications for registration submitted by persons who choose voluntarily to use the cite-all approach, but may no longer require an applicant to use the cite-all approach. This

decision, therefore, requires abandonment of the mandatory cite-all approach set forth in the proposed regulations.

In the December 27, 1982 proposal, the Agency solicited public comment on alternative systems for registering pesticides without mandatory cite-all. The preamble, for example, stated:

The Agency strongly encourages commenters to address the question of what mechanisms would be available to the Agency to resolve all the problems associated with data submitters' rights if commenters feel that the "cite-all" approach should be modified by regulations alone.

In light of the D.C. District Court's recent decision, EPA wishes again to encourage commenters to provide specific suggestions for alternatives to the mandatory cite-all regulations.

Issues for Commenters To Address

1. The mechanisms by which applicants would identify the minimum data requirements.

Since applicants will not be required to cite all previously submitted data, some means must be developed to identify the minimum data requirements which apply to a given application. EPA's data requirements have been proposed as regulations that would be codified at 40 CFR Part 158 (47 FR 53192, November 24, 1982). Commenters should address whether those proposed regulations can and should form the basis for determining the minimum amount of data an applicant must submit or cite for purposes of FIFRA sec. 3(c)(1)(D). If these data requirements are deemed appropriate, commenters should consider issues relating to when and in what manner waivers of the requirements (see proposed 40 CFR 158.45 and 158.60) should be permitted. In particular, how can previously granted waivers be identified and applied to an application, and what opportunity should be provided for new or additional waivers?

2. The effect of "data gaps" in previous submissions.

Under FIFRA sec. 3(c)(7), in some cases a registration can be granted even though data needed to support an unconditional registration under FIFRA sec. 3(c)(5) have not yet been submitted on the condition that the applicant will submit the data required for full registration no later than all previous registrants are required to submit such data. Therefore, applicants sometimes could satisfy a particular data requirement by showing that no data to fulfill that requirement have been generated. Commenters are requested to address how EPA should permit the identification of "data gaps" as a means

of fulfilling the minimum data requirements.

3. The extent to which applicants should be able to rely on previously submitted data to fill data requirements.

FIFRA sec. 3(c)(1)(D) allows applicants to cite and rely on much of the previously submitted data without permission of the original data submitter, so long as appropriate offers to pay for the data are made. EPA is considering making this "mandatory licensing" of data available to applicants who choose a cite-all approach, and limiting the non-cite-all option to applicants who have obtained permission of the original data submitter to rely on particular items of data less than the entire set of data. This might lessen the number of disputes between data submitters and applicants about data validity and sufficiency, and lessen the Agency's involvement in essentially intra-industry issues. Comments are solicited on this approach. Commenters opposing this approach should identify arguments supporting a broader opportunity to cite specific data for particular data requirements without the original submitter's permission, and describe mechanisms by which applicants can discover and properly cite such data.

4. Possible means to resolve disputes relating to procedures for determining data requirements and for citing or submitting data.

Commenters are urged to address means to prevent or resolve disputes by applicants and/or previous data submitters. Such disputes could relate to: (1) The appropriate data requirements for a given application; (2) the adequacy, validity, or completeness of the data submitted or cited to fill data requirements; or (3) the existence or propriety of required authorizations or offers to pay, or other procedural aspects. In discussing the handling of potential disputes, commenters should focus on procedures to be used during consideration of pending applications and following the issuance of a registration or amendment. Commenters should bear in mind that EPA desires to avoid reviewing data on an ad hoc, application-by-application basis merely to protect data submitters' economic rights. Instead, EPA intends to review the data bases on a comprehensive basis for purposes of evaluating potential risk; this will be accomplished primarily through the registration standards process.

(Secs. 3 and 25 of FIFRA, as amended, 7 U.S.C. section 136 et seq.)

Dated March 18, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-6013 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1181 and 1183

[Ex Parte Nos. MC-79 (Sub-2) and MC-152 (Sub-1)]

Control of Duplicate Operating Rights; Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking and policy statement.

SUMMARY: In light of changes contained in the Bus Regulatory Reform Act of 1982 (Bus Act), Pub. L. 97-261, enacted September 20, 1982, and effective November 19, 1982, the Commission proposes to amend its regulations at 49 CFR 1181.3(c) and 1183.6 to remove the prohibition against approving transactions that would result in motor passenger carriers under common control holding duplicate operating rights. Simultaneously, the Commission proposes to change its policy of denying motor passenger carrier operating rights applications because they would result in commonly controlled carriers holding duplicate operating rights, and to permit individual carriers to hold duplicate operating rights.

DATE: Comments are due on April 29, 1983.

ADDRESS: Send an original and 15 copies of comments to: Ex Parte Nos. MC-79 (Sub-No. 2) and MC-152 (Sub-No. 1), Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Barry Cohen (202) 275-7971; or Howell I. Sporn (202) 275-7691.

SUPPLEMENTARY INFORMATION:

Introduction and Background

Under the regulations at 49 CFR 1183.6,¹ the Commission will approve a transaction under 49 U.S.C. 11343 which would result in the common control or management of two or more motor carriers of passengers whose combined annual gross operating revenues exceed \$2 million and which hold duplicate

operating rights, only if the applicants: (1) Request cancellation of the duplicate rights; (2) submit a plan and timetable to eliminate the duplications at the earliest practicable date, so that only one of the commonly controlled motor carriers will hold the duplicating authority; or (3) show "cogent and acceptable" reasons why duplicate rights under common control should be permitted to continue. If the duplications are allowed to continue, the certificates involved will be conditioned against severance from common ownership by sale or otherwise.

Under the regulations at 49 CFR 1181.3(c), the Commission will not approve a transfer or lease of passenger operating rights under 49 U.S.C. 10926 to a person who controls, is controlled by, or is under common control with, another person who holds passenger operating rights which materially duplicate those to be transferred. The Commission has sometimes allowed commonly controlled motor carriers to hold duplicate rights where this was justified by special circumstances, such as where the duplications were viewed as *de minimis*, where carriers performed different services, or where unusual conditions, including the receipt of tax advantages, existed.

The prohibition against common control of duplicate operating rights has been applied to passenger carriers since the early days of regulations. In *Buffalo & Erie Coach Corp.—Merger*, 15 M.C.C. 797 (1939), we approved a passenger carrier merger in line with our policy of encouraging corporate simplification and noted that extensive duplication of operating authority would thereby be eliminated. In *Temple—Control—Blue Bird Coach Lines, Inc.*, 36 M.C.C. 583, 594 (1941), we denied an application seeking approval of common ownership of two passenger carriers because duplications would result in uneconomical transportation, and no justification for two carriers holding duplicate authority had been established.

Similarly, the Commission found that affiliates with duplicate authority created a potential for discriminatory and unfair competitive practices in *Dollar Lines—Purchase—United States System, Inc.*, 40 M.C.C. 63 (1944). See also, *Casser—Control—Bingler Vacation Tours, Inc.*, 57 M.C.C. 53, 62-63 (1950); *Manhattan Transit Co.—Control and Merger*, 65 M.C.C. 701 (1956); and 70 M.C.C. 89 (1956). The policies of encouraging corporate simplification and the proscription against common control of duplicate rights because of the potential for discrimination were also affirmed in *Ocean Drive Tours—*

Purchase—Carll, 97 M.C.C. 20, 24-25 (1964).

In *Control or Consolidation of Motor Carriers*, 109 M.C.C. 448 (1970), we codified these policies as rules, now appearing at 49 CFR 1183.6. Since then, we have continued to enforce these policies. See e.g., *Greyhound Lines, Inc., Ext.—Special Operations*, 115 M.C.C. 82 (1972). Although the regulations technically apply only to control applications, the Commission generally does not grant licensing applications which would result in commonly controlled carriers holding duplicate rights.

The Effect of Recent Legislation

In Ex Parte No. MC-79 (Sub-No. 1), *Control of Duplicate Operating Rights*, 127 M.C.C. 780 (1981),² the Commission removed the prohibitions in 49 CFR 1181.3(c) and 1183.6 against the holding of duplicate operating rights by motor carriers of property under common control and issued a final policy holding that applications would no longer be denied merely because they would result in commonly controlled carriers holding duplicate authority. The Commission also indicated that it would permit individual motor carriers of property to hold duplicate operating rights. These changes were implemented after enactment of the Motor Carrier Act of 1980 (Pub. L. 96-296, 94 Stat. 793) (MCA) and in light of the new competitive environment in which motor carriers of property operated.

In its decision in Ex Parte No. MC-79 (Sub-No. 1), the Commission noted that, historically, the following reasons were advanced in support of the prohibition against common control of duplicate operating rights: (1) The perceived possibility of unfair competition, unjust discrimination, and preference as to rates and practices, (2) the ability to use the grant of "valuable" operating rights improperly for personal gain through its sale as a commodity (trafficking), and (3) the potential for inefficient regulation and confusion to the public if duplicate rights were maintained under common control.

The Commission found that the MCA, in promoting increased competition and diversification of carrier rate and service options, superseded prohibitions against the holding of duplicate rights. In a regulatory environment which no longer protects carriers from competition by restricting entry and imposing pricing uniformity, the

¹ 49 CFR 1134.51 was redesignated as § 1183.6, and 49 CFR 1132.3(c) was redesignated as § 1181.3(c), in Ex Parte No. 55 (Sub-No. 55), *Revision and Redesignation of the Rules of Practice*, 47 FR 49534 (November 1, 1982).

² That proceeding embraced Ex Parte No. MC-152, *Policy Statement Regarding Duplicate Operating Rights*.

prohibition against the holding of duplicate operating rights is inconsistent with the pro-competitive emphasis of the MCA.

The Commission further noted in Ex Parte No. MC-79 (Sub-No. 1) that the MCA did not alter the standards under which applications for authority by motor carriers of passengers were considered, or the type of authority which passenger carriers could receive.³ Nor did it make changes in the rate practices of passenger carriers.⁴ In light of this and the fact that Congress began to consider separate legislation concerning the bus industry, the findings in Ex Parte No. MC-79 (Sub-No. 1) were specifically limited to motor carriers of property.

The Bus Regulatory Reform Act of 1982 (Bus Act) that was subsequently enacted made substantial changes in our regulation of the passenger carrier industry. The Bus Act eases motor passenger carrier entry controls, promotes competition and makes available more responsive service to the traveling and shipping public. Sections 6 and 13 of the Bus Act significantly reduce the burden of proof on applicants seeking new or extended operating authority. The applicant need only to demonstrate that it is fit, willing and able to provide the transportation sought and be able to comply with the Interstate Commerce Act and the Commission's regulations.⁵ Under Section 18 of the Bus Act, this showing is met by a demonstration of safety fitness and proof of insurance coverage at levels established by the Secretary of Transportation. The Commission will grant all applications based upon this showing unless a protestant establishes that the applicant is unfit.

Section 11 of the Bus Act establishes a zone of rate freedom for passenger carriers similar to that adopted for motor carriers of property in the MCA. Bus companies may now raise or lower rates within specified percentages over the next three years with substantially reduced risk of investigation or suspension. During the next three years, rates or fares within the zone of rate freedom may not be suspended or

investigated except on the grounds that they are predatory or discriminatory.⁶

The MCA's goals of increased price and service competition were extended to, and in some ways expanded for, passenger carriers in the Bus Act. Accordingly, we are reexamining our past passenger carrier policies, including those concerning duplicating operating authority, in light of the new legislation.

Further, in Section 5 of the Bus Act, Congress plainly stated its objective to promote competition and efficient transportation in order to meet the needs of passengers, allow a variety of quality and price options to meet changing market demands and the diverse requirements of the traveling public, and allow the most productive use of equipment and energy resources. Congress further stated that overly protective regulation has resulted in operating inefficiencies and diminished price and service competition in the motor bus industry. See 49 U.S.C. 10101(a)(2) and H.R. Rep. No. 97-780, 97th Cong. 2d Sess. (1982). As a result of this reexamination, we propose to eliminate the prohibition against the holding of duplicate rights by individual passenger carriers and by passenger carriers under common control.

None of the reasons underlying the existing policy is appropriate in light of the changes in bus regulation mandated by Congress. Because of the ease with which new and existing carriers can obtain operating authority, it is unlikely that discriminatory or unfair competitive practices will exist or cause harm to the public. If abuses should develop in the future, they can be addressed with existing regulatory tools. For example, our statutory powers under 49 U.S.C. 10741 enable us to protect the public from unreasonable discrimination.

The concern over "trafficking" in certificates is similarly anachronistic. The concern emerged when operating rights were deemed to be franchises with significant economic value. Given the ease of entry under existing regulations, such value no longer exists. Carriers, however, may in some situations prefer to purchase operating authority. We see no reason to discourage passenger carriers from selecting this method of competitive entry.

Nor do we perceive any significant adverse effect on competition arising from the sale of duplicate operating rights. Although we propose to eliminate our regulations prohibiting the holding of duplicate authority by affiliates, and

our policy of preventing individual passenger carriers from holding duplicate rights, we still retain authority to review a transfer of duplicate operating rights.

Therefore, we propose to eliminate the regulations at 49 CFR 1181.3(c) and 49 CFR 1183.6. Likewise, we are proposing to no longer deny motor passenger carrier operating rights applications merely because they would result in the common holding of duplicate authority, and to no longer require carriers that are granted authority that duplicates any of their outstanding authority to submit for cancellation the outstanding duplicated authorities as a condition precedent to issuance of the new authority.

Energy, Environmental and Other Considerations

This decision does not appear to affect significantly the quality of the human environment or the conservation of energy resources. However, comments on these issues are welcome.

Regulatory Flexibility Analysis

The proposed elimination of rules pertaining to motor passenger carriers will not have a significant economic impact on a substantial number of small entities because most small carriers do not hold duplicating authority. This issue has no significant impact on other small entities. Comments are also welcome on this subject.

List of Subjects

49 CFR Part 1181

Administrative Practice and Procedure, Brokers, Freight forwarders, Maritime carriers, Motor carriers.

49 CFR Part 1183

Administrative practice and procedure, Motor carriers.

PARTS 1181 AND 1183—[AMENDED]

§ 181.3 [Amended]

§ 1183.6 [Removed]

We propose to remove from Title 49, Code of Federal Regulations, § 1181.3(c) and § 1183.6.

This notice is issued pursuant to 49 U.S.C. 10321 and 10922(i) and 5 U.S.C. 553.

Decided: March 17, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and

³ See Section 5, Motor Carrier Entry Policy, of the MCA.

⁴ See Section 11, Zone of Rate Freedom for Motor Carriers of Property and Freight Forwarders, of the MCA.

⁵ Previously, applicants were required to demonstrate that their proposed service was required by the public convenience and necessity. The new entry standards for motor carriers of passengers are fully explained in Ex Parte No. 55 (Sub-No. 56), *Applications for Operating Authority—Motor Passenger Carriers*, 47 FR 53260 (November 24, 1982).

⁶ See Ex Parte No. MC-162, *Procedures for Complaints Against Bus Carrier Rates and Fares*, 47 FR 53282 (November 24, 1982).

Gradison, Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 88-6121 Filed 3-29-83; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30309-34]

Atlantic Tuna Fisheries

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to increase the annual quota of Atlantic bluefin tuna available to U.S. fishermen and requests public comment. The proposed rule would implement for U.S. fishermen the autumn 1982 recommendations of the International Commission for the Conservation of Atlantic Tunas to increase the harvest of Atlantic bluefin tuna in the western Atlantic Ocean. The intended effect of the proposed rule is to allow U.S. fishermen to harvest more Atlantic bluefin tuna so more complete and accurate biological information can be collected for stock monitoring purposes, while keeping the total harvest within a biologically acceptable range.

DATES: Comments must be received by April 29, 1983. See supplementary information section for dates of the public meetings on this proposed rulemaking.

ADDRESSES: Send comments on this proposed rulemaking to National Marine Fisheries Service, Northeast Region, Management Division, State Fish Pier, Gloucester, Massachusetts 01930-3097. Clearly mark "Comments on Atlantic bluefin tuna proposed rulemaking" on the outside of the envelope. Copies of the Environmental Assessment (EA) and the Initial Regulatory Flexibility Analysis (IRFA) are available from National Marine Fisheries Service, Northeast Region, Services Division, P.O. Box 1109, Gloucester, Massachusetts 01930-5309. Copies of the rules presently governing the fishery, the 1980 Environmental Impact Statement, and the 1982 Environmental Impact Statement/Regulatory Impact Review/Regulatory Flexibility Analysis are available from the same address.

See supplementary information section for the location and addresses of

public meetings on this proposed rulemaking.

FOR FURTHER INFORMATION CONTACT:

William C. Jerome, Jr., 617-281-3600, extension 325; or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION:

Background

The United States is a signatory nation to the International Convention for the Conservation of Atlantic Tunas (the Convention, 20 UST 2887, TIAS 6767). The Convention's provisions entered into force for the United States on March 21, 1969. The United States' obligations under the Convention are implemented by the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971-971h) (the Act). Both the Convention and the Act are directed toward "maintaining the populations of Atlantic bluefin tuna at levels which will permit the maximum sustainable catch of food and other purposes" (Preamble to the Convention). This Act directs the Secretary of Commerce (Secretary) to promulgate rules necessary to implement recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and to carry out the purposes and objectives of the Convention.

The Secretary, through NOAA, has monitored continually the stock levels of Atlantic bluefin tuna to fulfill the international treaty obligations of the United States.

Rules presently governing the U.S. fishery (47 FR 25350, 47 FR 40179, 47 FR 50886, and 48 FR 3991) are designed to implement the following recommendations of ICCAT: (1) To prohibit any taking and landing of Atlantic bluefin tuna weighing less than 6.4 kilograms (kg) (14 pounds [lbs]) except for a 15 percent incidental catch allowance; (2) to limit fishing mortality to recent levels; and (3) to reduce harvest levels of Atlantic bluefin tuna in the western Atlantic Ocean to as near as feasible for two years. ICCAT made recommendations one and two in 1974 and recommendation three in 1981. A detailed discussion of the ICCAT concerns relating to Atlantic bluefin tuna management since 1974 was presented in the proposed rulemaking for 1982 published in the Federal Register on April 21, 1982 (see 47 FR 17087-88).

Based on these ICCAT recommendations, NOAA implemented the following measures in 1982 for Atlantic bluefin tuna management in the western Atlantic Ocean: the annual U.S. catch was limited to 605 metric tons (mt) (667 short tons [st]); and no directed

fishery on the spawning stock of Atlantic bluefin tuna in the Gulf of Mexico was allowed.

In mid-November, 1982, ICCAT met in Madeira, Portugal and decided to continue conservation measures for Atlantic bluefin tuna in the western Atlantic Ocean. ICCAT, in making this decision took into account the results of the meeting of the Standing Committee on Research and Statistics (SCRS) which also was held in Madeira just prior to the ICCAT meeting. SCRS could not reach agreement on certain aspects of the status of the stock, and felt that the level of 1982 catches were insufficient to provide a broad range of biological information to monitor the stock. SCRS concluded, however, the weight of evidence suggests that the catch levels should remain conservative. ICCAT considered it appropriate to introduce greater flexibility in the total allowable catch levels necessary for stock assessment purposes during this second year of the two year moratorium. ICCAT, therefore, raised the total allowable catch limit from 1,160 mt (1,279 st) for 1982 to 2,660 mt (2,931 st) for 1983 to allow for more comprehensive scientific monitoring of the stock.

The total U.S. catch of Atlantic bluefin tuna in 1982 amounted to 723 st. The total 1982 catch statistics for Canada and Japan are not yet available. Under this ICCAT recommendation, which NOAA proposes to implement, the U.S. allocation of the total allowable catch will increase from 605 mt (667 st) 1,367.3 mt (1,529 st). The allocations for Canada and Japan will be 573.3 mt (632 st) and 699.4 mt (771 st), respectively. The percentage share of the total quota for the western Atlantic Ocean remains the same for each nation in 1983 as in 1982: United States, 52.15 percent; Canada, 21.55 percent; and Japan, 26.30 percent.

ICCAT's concern for the continued low level of abundance of small Atlantic bluefin tuna resulted in the recommendation that the catch of Atlantic bluefin tuna smaller than 120 centimeters (cm) (47 inches) in length be limited to no more than 15 percent by weight of the total catch in the western Atlantic Ocean (i.e., no more than 440 st). For the U.S., this means no more than 229 st of Atlantic bluefin tuna in this size class will be available for domestic harvest. ICCAT also recommended the continuation of a prohibition on directed fisheries for Atlantic bluefin tuna in spawning areas, such as the Gulf of Mexico, for 1983.

At the 1982 ICCAT meeting, stock assessments, although improved in techniques and precision over previous

years, yielded disparate results in estimating the population size of both younger and older fish. One view was that the juvenile levels of abundance are 21 percent of the 1960 level, with a further decline likely in adult abundance. Another view was that adult spawning biomass and potential will increase until 1983 with a decreasing trend thereafter. Because of these differing results in the stock assessments, the recommended increase in the allowable catch to more accurately monitor the stock and enable ongoing scientific studies to continue was kept at conservative levels. Even with the increase in the level of allowable catch for 1983 compared to 1982, ICCAT considers the action to be sound environmentally and within an acceptable range which will not place undue stress on the Atlantic bluefin tuna stocks.

Proposed Changes to Existing Rules

1. Increase in the U.S. Quota

The ICCAT recommendation allows increases in the U.S. quota for the various segments of the U.S. fishery from 667 st in 1982 to 1,529 st in 1983. The table below compares the quotas that became effective on June 10, 1982 and the quotas proposed for 1983.

QUOTAS FOR 1982 (ACTUAL) AND 1983 (PROPOSED)¹

	Short tons (metric tons) 1982	Short tons (metric tons) 1983
Total Quota.....	667(605)	1,529(1,387)
1. Directed fisheries:		
a. Handgear.....	310(281)	650(590)
b. Recreational angling.....	99(90)	99(90)
c. Harpoon boat.....	43(39)	60(54)
d. Purse seine.....	—	300(272)
2. Incidental fisheries:		
a. Swordfish longline.....	44(40)	145(132)
b. Purse seine.....	165(150)	140(127)
c. Other.....	6(5)	6(5)
3. Inseason adjustment amount.....	—	129(117)

¹Both the existing and proposed rules specify quotas in short tons. Conversions to metric tons are approximations.

A discussion of the proposed quotas for each gear segment in the Atlantic bluefin tuna fishery follows.

Handgear: The handgear fishery for giant Atlantic bluefin tuna along with the recreational angling fishery for young school, school, and medium Atlantic bluefin tuna are the primary monitoring mechanism in the U.S. fishery for stock assessment purposes. In 1982, NOAA expanded the annual survey, begun in 1976 to obtain catch and effort information from the recreational fishery, to obtain similar information from the handgear fishery.

This expanded survey program met NOAA expectations, providing valuable information, in terms of quantity and

quality of the information collected, on the giant Atlantic bluefin tuna fishery. Based on the 1982 experience, NOAA will continue to use this fishery as a primary monitoring tool. The 1982 quota of 310 st of giant Atlantic bluefin tuna allocated to this segment of the fishery was taken and NOAA closed the fishery on September 10, 1982 (47 FR 40179).

The catch of giant Atlantic bluefin tuna was 645 st in 1980 and 550 st in 1981. For 1983, NOAA proposes a quota of 650 st which approximates the catching capacity of this fishery as conducted under rules in effect for those years. The proposed quota, based on the 1980-81 catch data, will permit more adequate monitoring of the Atlantic bluefin tuna stocks.

Recreational angling: The recreational angling fishery for young school, school, and medium Atlantic bluefin tuna provides valuable catch and effort information on a wide range of age classes. The combination of good age-group sampling and the availability of a time series (1976-82) of catch and effort information makes this fishery well suited for monitoring all age groups of young school, school, and medium Atlantic bluefin tuna. For this reason, stock assessment scientists recommend this fishery be used as the primary monitoring mechanism for stock assessment purposes.

The regulations for 1982 established a quota of 99 st. The annual estimated catch, based on the sampling program, of school and medium Atlantic bluefin tuna for both 1981 and 1982 was 93 st. Since landings indicate the 1982 quota was not a limiting factor to this fishery, NOAA proposes to continue the 99 st quota for 1983.

The 1982 ICCAT recommendation limits the harvest of Atlantic bluefin tuna 47 inches or less in length to 15 percent in the western Atlantic; 15 percent of the overall U.S. quota is 229 st. Approximately 89 st of the Atlantic bluefin tuna harvested in the 1982 young school, school, and medium fishery were 47 inches or less in length. Because of the importance of this fishery in monitoring the younger age groups, NOAA proposes to utilize 89 st of Atlantic bluefin tuna in this size category for the recreational angling fishery.

In 1982, an Atlantic bluefin tuna fishery developed for medium-sized fish in the general area between Montauk, Long Island and Block Island late in the season because large numbers were available and the price per pound from commercial buyers approached that paid for giants. As a result, participants in the industry reported that a large number of mediums were landed.

NOAA believes that the potential development of a significant fishery for medium-sized Atlantic bluefin tuna could result in an excessively high percentage of the recreational quota being filled by this particular size class.

This recent shift in the recreational fishery is of concern to NOAA for two reasons. First, NOAA has had significant controls on the harvest of medium-sized fish since 1975 to enhance potential recruitment to the adult population. With the projection for continued decline in the abundance of Atlantic bluefin tuna stocks, an increase in the harvest of mediums at this time could impact negatively on the future contribution from this size class to the spawning population.

Second, this segment of the fishery is used as the primary stock monitoring mechanism by the stock assessment scientists because of excellent age group representation. Any significant shift, therefore, in increased landings of medium Atlantic bluefin tuna could reduce the quality of the information being collected and its capability to be used for stock monitoring purposes.

To address this problem, NOAA proposes to change the daily retention limit for medium Atlantic bluefin tuna for vessels carrying more than one angler. The daily retention limit for mediums would be modified from one per angler to one per group of anglers (regardless of number) fishing from the same vessel. Under the existing regulations, four anglers fishing from the same vessel legally could retain four medium Atlantic bluefin tuna per day. Under the proposed rule, this same group of anglers legally could retain only one medium fish. NOAA believes that restricting the number of medium Atlantic bluefin tuna per angler or group of anglers fishing from the same vessel is necessary to prevent vessel operators from gearing up to take multiple daily catches of medium Atlantic bluefin tuna. This proposal would not change, however, the existing regulation that each angler may retain per day no more than four young school, school, or medium Atlantic bluefin tuna, only one of which may be a medium. The proposed daily catch rate of one medium Atlantic bluefin tuna per angler or group of anglers will continue to provide reasonably economic benefit and a quality fishing experience to anglers in this fishery.

Harpoon boat fishery: In 1982, the quota for this category amounted to 43 st or 6 percent of the overall U.S. quota. The harpoon boat quota was reached and the fishery closed on October 19, 1982 (47 FR 47017). The catch by this

segment of the fishery in 1980 and 1981 was 50.8 st and 62.7 st, respectively, or an average annual catch of 57 st. NOAA proposes a quota of 60 st to this segment of the fishery, which should approximate its catching capacity based on the 1980-81 landing data.

While NOAA proposes to increase the harpoon boat quota by 17 st, the actual percent share of the proposed harpoon boat quota relative to the total U.S. quota for 1983 will decrease from approximately six percent to four percent. NOAA does not believe an increase in the harpoon boat quota to maintain the six percent relative share is warranted since this fishery is not considered a primary monitoring mechanism.

Longline fishery: The U.S. longline fishery for swordfish has existed in the Gulf of Mexico since the 1960's, and over the years has landed increasing amounts of Atlantic bluefin tuna taken incidentally. A swordfish longline fishery also has occurred for some time in the Atlantic Ocean. The catch of giant Atlantic bluefin tuna also increased in this fishery but not nearly as rapidly as in the Gulf of Mexico longline fishery. The continued increase in the quantities of giant Atlantic bluefin tuna taken by longline vessels led NOAA to promulgate incidental catch provisions in January 1981 to apply to all vessels using longline gear. The purpose of these rules was to prevent the longline fishery from developing into a new directed fishery for Atlantic bluefin tuna.

The longline fishery in 1981, even under these incidental catch restrictions, reportedly took approximately 90 st of Atlantic bluefin tuna, 80 st in the Gulf of Mexico and 10 st in the Atlantic Ocean. NOAA believed at that time the 80 st harvested in the Gulf of Mexico was in excess of the unavoidable incidental catch needs of the swordfish fishery and established a quota of 44 st for 1982. The rules for 1982 did not become effective until June 10, 1982 (47 FR 25350), at which time substantial incidental catches of Atlantic bluefin tuna already had been made by swordfish longline vessels. The fishery, therefore, was closed on June 18, 1982 (47 FR 26393), with landings amounting to 74 st, 53 st from the Gulf of Mexico and 21 st from the Atlantic Ocean. NOAA now believes that, because of an expansion of the Atlantic and Gulf of Mexico longline fishery for swordfish, the incidental catch quota of 44 st is not sufficient for unavoidable incidental catch of Atlantic bluefin tuna in this fishery.

The average catch for the years 1981 and 1982 amounted to 82 st despite the closure from June 18 through December

31, 1982 prohibiting the retention of Atlantic bluefin tuna by vessels permitted in the longline category. NOAA proposes an incidental catch quota of 145 st for the 1983 longline fishery. The existing regulations do not allocate the incidental quota for longline vessels on a geographic basis. This placed longline vessels operating in the Atlantic Ocean at a potential disadvantage since the entire quota could be taken by longline vessels operating in the Gulf of Mexico earlier in the year. NOAA proposes to allow only 115 st of the 145 st quota to be taken south of 36°00' N. latitude. The 36°00' N. latitude line is the same line used in the existing regulations to differentiate allowable trip limits in the longline fishery.

Purse seine fishery: The purse seine fishery is not identified by stock assessment scientists as one providing primary monitoring capability. Effort information on purse seine fishing is not suited for indexing the fishing mortality rate in small localized fisheries. This U.S. purse seine fishery is no exception in that only a relatively few vessels are active in the fishery (i.e., less than 10 vessels during the past five years). If their catch were restricted to less than 100 st per vessel, the entire amount could be taken during a few sets and consist of only a few schools comprised of one or two age groups. Thus, purse seine fishing effort as an index of the fishing mortality rate would not be sufficiently useful for developing stock assessments for Atlantic bluefin tuna of these ages. In 1982, those purse seiners identified as historical participants in this fishery were granted an overall allocation of 165 st primarily to enable them to conduct fisheries for other species of tuna in which an incidental catch of Atlantic bluefin tuna commonly can occur. In 1982, the skipjack tuna did not show up in abundance on the summering grounds off the mid-Atlantic states, and the tonnage of Atlantic bluefin tuna available to purse seine vessels was used in a directed fishery for giants as allowed for in the existing regulations.

During the public hearings held in the spring of 1982, purse seine operators and owners in oral and written comments, indicated that 300 to 350 st could provide for a viable fishery under the economic conditions that existed at that time.

In 1982, 25 percent of the overall U.S. quota of Atlantic bluefin tuna was allocated to the purse seine fishery. NOAA proposes to allocate a slightly greater percentage (28.8 percent) of the total U.S. quota in 1983 to the fishery (440 st). The rule which provides for the

purse seine quota to be distributed equally to each purse seine vessel qualified to be permitted in this category will continue in effect. Of the 440 st, no more than 140 st of Atlantic bluefin tuna less than 47 inches fork length would be available as incidental catch in fisheries directed at other species of tuna. The remainder (at least 300 st) would be available for a directed fishery for giant Atlantic bluefin tuna. Any portion of the quota for fish less than 47 inches which is not utilized as incidental catch by each vessel could be added to the vessel's allocation for a directed fishery and used for harvesting giant Atlantic bluefin tuna.

Section 285.31(a) of the existing rules allows purse seine vessels fishing for tunas other than Atlantic bluefin tuna to catch Atlantic bluefin tuna incidentally, provided that the total amount taken does not exceed 10 percent by weight of all other tuna species onboard the vessel at the end of each fishing trip. NOAA proposes that this provision continue in effect.

In 1980 and 1981, incidental catch regulations (45 FR 40118) provided that purse seine vessels fishing for giant Atlantic bluefin tuna (77 inches and over—fork length) could take incidentally Atlantic bluefin tuna measuring less than a 77-inch fork length provided that the amount of such tuna taken did not exceed 3 percent by weight of the total amount of giant Atlantic bluefin tuna onboard the vessel at the end of a fishing trip.

Purse seine fishermen, in written and oral comments to NOAA over the past several years, have contended that the three percent incidental catch provision is not adequate to accommodate the actual and unavoidable catch of Atlantic bluefin tuna less than a 77-inch fork length in the Giant Atlantic bluefin tuna fishery. In some cases they report that, to comply with the incidental catch regulations, considerable numbers of less than giant size Atlantic bluefin tuna have in the past been discarded at sea.

In 1982, the incidental catch of Atlantic bluefin tuna less than a 77-inch fork length taken by purse seiners while fishing for giant Atlantic bluefin tuna was 10.6 percent by weight.

NOAA believes the available information indicates that an increase in the incidental catch allowance of Atlantic bluefin tuna less than a 77-inch fork length taken by purse seiners in a directed giant Atlantic bluefin tuna fishery is warranted. NOAA, therefore, proposes to increase the incidental catch percentage from three to ten percent by weight of all giant Atlantic

bluefin tuna onboard at the end of each fishing trip.

Purse seine fishermen, in written and oral comments, have requested that they be allowed to take or harvest more than one allocation of Atlantic bluefin tuna with one vessel in order to increase economic efficiency. NOAA believes this proposal is reasonable in that it will reduce conflicts among user groups, minimize vessel operation costs, and lessen the enforcement demands on state and federal law enforcement agencies. Further, this proposal should result in a reduction of record keeping in the purse seine fishery.

Other: Vessels fishing for species of fish other than tuna were allocated 6 st in 1982. Seven giants (2.6 st) were taken in 1981 and only one giant Atlantic bluefin tuna (0.3 st) was reported taken in 1982. NOAA proposes to continue this quota in effect for 1983.

Inseason adjustment amount: This proposal sets aside 129 st of Atlantic bluefin tuna for inseason adjustment of quotas. During the fishing seasons, NOAA monitors catch rates on a weekly and daily basis. When it appears that a subquota will be completely harvested, NOAA initiates administrative action (including publication of a Federal Register notice) to announce a closure of that category. Due to inevitable delays in inseason reporting of catch and landing statistics, subquotas sometimes have been exceeded before a closure could be announced. Exceeding the total catch limits set by ICCAT would be contrary to international commitments of the United States and, therefore, one option considered was to err on the side of caution, and initiate closure actions early. This type of policy could lead to premature closures, depriving some sectors of fishing opportunity before their subquotas had actually been completely taken. Instead, NOAA would continue to monitor inseason catch reports, and to initiate closure action when fulfillment of a subquota appears imminent. Should the fishery sector exceed its subquota before the closure took effect, however, the Regional Director could release a sufficient quantity from the inseason adjustment amount to cover the overage. In addition, allocations could be made from this amount where continued monitoring of the size and age class Atlantic bluefin tuna caught under that subquota is desired, but a closure would otherwise be imminent.

2. Establishing a Variable Catch Rate Limit for Harvesting Giant Atlantic Bluefin Tuna

In 1982, NOAA implemented rules establishing a catch rate limit of one

giant Atlantic bluefin tuna per vessel per week for the handgear fishery. Based on available information concerning catches from this fishery for 1979-1981, this catch rate limit provided for the longest possible season while still maintaining a reasonable chance of achieving the quota of 310 st. The quota was taken and the handgear fishery was closed on September 10, 1982 (47 FR 40179).

In conjunction with the proposed handgear quota of 650 st (discussed earlier), NOAA proposes a catch rate limit for the 1983 fishing season similar to that which governed the fishery during 1980 and 1981.

At the beginning of the season, vessels fishing for or catching giant Atlantic bluefin tuna, which are permitted in the general category under § 285.21(b), would be allowed to catch only one giant Atlantic bluefin tuna per day per vessel. The appropriateness of this daily catch rate limit would be reviewed twice by the Assistant Administrator, first about August 7 and second, about September 7. At the first review, if less than 30 percent of the handgear quota has been caught, the allowable daily catch rate limit will be increased to two Atlantic bluefin tuna per day per vessel. At the second review, if 85 percent or more of the handgear quota has been caught, the allowable daily catch rate limit will be set at one giant Atlantic bluefin tuna per day per vessel; if 70 or more percent and less than 85 percent of the handgear quota has been caught, the allowable daily catch rate limit will be set at two giant Atlantic bluefin tuna per day per vessel; if more than 60 and less than 70 percent of the handgear quota has been caught, the allowable daily catch rate limit will be set at three giant Atlantic bluefin tuna per day per vessel; if 60 percent or less of the handgear quota has been caught, the allowable daily catch rate limit will be increased to four giant Atlantic bluefin tuna per day per vessel.

NOAA believes this system for automatic adjustment of the daily catch rate limit will provide ample opportunity for those permitted in the general category to take the quota without resulting in an early closure of the fishery. This system also should increase predictability in the fishery for participants.

3. Incidental Rod and Reel Fishery—Gulf of Mexico

The annual commencement date of June 1 for the handgear fishery was established to implement the ICCAT recommendation to prohibit directed fisheries on spawning Atlantic bluefin

tuna in the Gulf of Mexico. Most giants have left the Gulf of Mexico by June and have moved northward to their summer feeding grounds off the mid-Atlantic and New England states and the Maritime provinces of Canada. Thus, the June 1 commencement date for the handgear fishery effectively eliminates a directed fishery for giant Atlantic bluefin tuna by this segment of the fishery in the Gulf of Mexico.

Rod and reel fishermen in the Gulf of Mexico on rare occasions take giant Atlantic bluefin tuna incidentally while fishing for billfish, especially marlin, and other game species before June 1. During the period 1980 through 1982, only one giant Atlantic bluefin tuna was reported caught off the Louisiana coast. The Gulf of Mexico rod-and-reel fishermen contend that in the past the once in a lifetime opportunity to take a giant Atlantic bluefin tuna enhanced the quality of their big-game fishing experience. Members of this segment of the fishery have requested that an accommodation be considered to provide for their occasional, incidental catch of a giant.

NOAA now believes that an incidental catch of giant Atlantic bluefin tuna by rod-and-reel fishermen in the Gulf of Mexico occurs infrequently, constitutes a truly incidental fishery, and has little effect on spawning fish. However, it is believed that an incidental fishery in which ABT could be sold or used for commercial purposes could result in any number of "recreational" vessels being permitted in this category. Such vessels could become the repository for surplus ABT taken in commercial fishing activities in the Gulf of Mexico. Any quota assigned for the truly incidental rod-and-reel fishery would be exhausted in an extremely short period of time. NOAA proposes, therefore, that any person using rod-and-reel gear in the Gulf of Mexico with an Incidental Catch Permit issued under § 285.21 may catch and retain one giant Atlantic bluefin tuna annually provided that reporting requirements (§ 285.30(c)(2)) are observed and, further, that any Atlantic bluefin tuna taken shall not be sold or transferred to any person for a commercial purpose.

4. Miscellaneous Changes to the Rules

NOAA has rearranged the sections of both Subparts A and B to bring the structure of the rules governing the Atlantic bluefin tuna fishery more in conformance with other NOAA fishery rules and current NOAA practices in drafting rules. This rearrangement of sections is intended to improve the

overall readability of the rules which, in turn, should aid affected domestic fishermen to understand the rules. Section 285.7 of the existing rules, which merely repeated Section 9(d) of the Act, has been eliminated as redundant. Further, § 285.20 of the existing rules has been eliminated as unnecessary in these proposed rules. The relationship of each section of Subparts A and B in these proposed rules to the existing rules is shown in the following derivation table. All internal cross-references in Subparts A and B have been changed to reflect this new ordering system.

Derivation Table

New Section	Old Section
§ 285.1	§ 285.1
§ 285.2	§ 285.2
§ 285.3	§ 285.3
§ 285.4	§ 285.5
§ 285.5	§ 285.6
§ 285.6	§ 285.4
§ 285.20	§ 285.29
§ 285.21	§ 285.21
§ 285.22	§ 285.30
§ 285.23	§ 285.31
§ 285.24	§ 285.32
§ 285.25	§ 285.28
§ 285.26	§ 285.26
§ 285.27	§ 285.33
§ 285.28	§ 285.22
§ 285.29	§ 285.23
§ 285.30	§ 285.24
§ 285.31	§ 285.25
§ 285.32	§ 285.27

NOAA proposes to make a number of technical additions to the existing rules as a result of the proposal (discussed above) to allow a directed purse seine fishery for giant Atlantic bluefin tuna. These additions are either similar or identical to provisions in the rules governing the fishery in 1980 and 1981. Because of the proposed increase in the handgear quota, NOAA proposes to return to catch rate limits similar to those in effect in 1980 and 1981. NOAA also proposes numerous editorial changes, especially changing statements from passive to active voice, to the existing rules for clarity and ease of understanding. Throughout the proposed rule, the word "regulation" has been replaced with the word "rule" to conform with terminology preferred by the Office of the Federal Register.

The following section by section discussion of the proposed rules explains these changes.

Section 285.2

The definition of "Assistant Administrator" has been updated to conform with NOAA usage and other fishery rules. Several other definitions have undergone minor editorial changes. The scientific name for skipjack tuna has been updated to reflect recent taxonomic usage.

Section 285.3

In paragraph (d), language has been added to make it unlawful to prevent an authorized officer from questioning persons on a dealer's premises. This change would treat employees of a dealer equal with crew members of a fishing vessel.

Section 285.4

Editorial changes were made to this section to improve its readability.

Section 285.5

The number of the supense account which the Regional Director uses to deposit proceeds from the sale of forfeited Atlantic bluefin tuna has been updated to reflect current use.

Section 285.20

In paragraph (a), specified commencement dates have been included for vessels permitted in the Purse Seine category. Purse seine vessels fishing for school and giant Atlantic bluefin tuna would be allowed to commence fishing operations on January 1 and August 15 respectively. Paragraph (b)(1) was added to provide for closure of the fishery for purse seine vessels.

Section 285.21

Paragraphs (a) through (c) have been rewritten to include provisions for issuing permits to purse seine vessels. Numerous editorial changes have been made throughout this section.

Section 285.22

This section has undergone major revisions to reflect the increases in the quotas for the various gear segments in the fishery and to include provisions for the directed purse seine fishery for giant Atlantic bluefin tuna. A new paragraph has been added which sets aside a portion of the total quota as an inseason adjustment amount, and establishes criteria for allocating from this amount during the fishing season.

Section 285.23

This section has undergone major revisions to establish incidental catch provisions for purse seine vessels. Paragraphs (a) and (c) are new as written. A new paragraph (g) has been added to allow persons using rod-and-reel gear an incidental catch of giant Atlantic bluefin tuna in the Gulf of Mexico.

Section 285.24

Paragraph (a) has been modified extensively to change from the existing catch rate limit of one per week to variable catch rate limits of between

one and four giant Atlantic bluefin tuna per vessel per day.

Section 285.25

The section heading has been changed from purse seine vessel inspection to purse seine vessel gear requirements to better reflect the contents of this section. Paragraphs (a) and (b) which establish criteria for the construction of purse seine nets have been added because of the proposed directed giant Atlantic bluefin tuna purse seine fishery. These criteria are identical to those existing in 1980 and 1981 when a directed purse seine fishery was last allowed. A new paragraph (d) has been added to provide a mechanism for allocating Atlantic bluefin tuna equally among the permitted purse seine vessels.

Section 285.28

Minor editorial changes were made to improve readability. In paragraph (b), the term "principal place of business" has been added to the list of information required on the application for a dealer's permit.

Section 285.29

Paragraph (c) has been modified to allow explicitly an authorized officer to copy dealer records. Minor editorial changes also have been made to this section.

Section 285.30

Paragraphs (a) and (c) (1) were rewritten for clarity.

Section 285.31

Paragraphs (e), (f), (g), and (t) have been added as necessary to reflect the proposed reestablishment of a directed fishery for giant Atlantic bluefin tuna by purse seine vessels. Paragraph (n) is a new prohibition based on the provisions for an incidental rod and reel fishery for giant Atlantic bluefin tuna in the Gulf of Mexico.

Section 285.32

The section heading has been changed from penalties to civil penalties to better reflect this section's contents.

Public Meetings

NOAA will hold public meetings to receive comments on these proposed rules. The notice announcing the public meetings was published in the Federal Register on February 25, 1983 (48 FR 8097). The date, location, and time of each public meeting is repeated here for informational purposes.

Date	Location	Time
March 14	Madera Beach City Hall, 300 Municipal Drive, Madera Beach, FL 33706, Tel: 813/391-9951.	7 p.m.-9:30 p.m.
Do	Holiday Inn of Riverhead, Route 25, Riverhead, Long Island, NY 11901, Tel: 516/369-2200.	Do.
March 15	Quality Inn-Lake Wright, 6280 North Hampton Blvd., Norfolk, VA 23502, Tel: 804/461-6251.	Do.
Do	Holiday Inn, Route 36, West Long Branch, NJ 07764, Tel: 201/229-9000.	Do.
Do	Best Western Exec. Inn, 3224 South US 1, Ft. Pierce, FL 33450, Tel: 305/465-7000.	Do.
March 17	Holiday Inn, Route 1, Newbury Street, Peabody, MA 01960, Tel: 617/535-4600.	Do.

Classification

These proposed rules will have a positive effect on a substantial number of small business entities. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared in compliance with Section 603 of the Regulatory Flexibility Act to describe the impact of the proposed rule on small entities. The IRFA is prepared as part of the combined IRFA/RIR for this action. The IRFA showed that the proposed rules would have a net positive significant effect on small businesses.

The Administrator of NOAA has determined that these proposed rules are not major under Executive Order 12291. A Regulatory Impact Review (RIR) was prepared to make this determination, and is part of the combined IRFA/RIR. The proposed rules amend rules implemented in 1982. A combined Environmental Impact Statement/Regulatory Impact Review/Regulatory Flexibility Analysis (82 EIS/RIR/RFA) was prepared in 1982 for those rules.

Certain portions of these proposed rules repromulgate provisions from the 1980 regulations, which were analysed in an EIS prepared in 1980 (80 EIS). The Administrator of NOAA prepared an Environmental Assessment (EA) and has determined that the proposed rules published here will have no significant environmental impacts, other than those that already have been addressed in the 82 EIS/RIR/RFA and 80 EIS.

The information collection requirements in §§ 285.21, 285.27, 285.28 and 285.29 are identical to the

requirements in the existing regulations. These information collection requirements have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number as noted under those sections.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, fisheries, fishing, Imports, International organizations, Penalties, Reporting and recordkeeping requirements.

Dated: March 25, 1983.

Roland Finch,

Acting Director, Office of Fisheries Management, National Marine Fisheries Service.

50 CFR Part 285 is proposed to be amended as follows:

1. The authority citation for Part 285 is as follows:

Authority: 16 U.S.C. 971 et seq.

2. In Part 285, it is proposed to revise Subparts A and B of Part 285 as follows:

PART 285—ATLANTIC TUNA FISHERIES

Subpart A—General

Sec.

- 285.1 Purpose and scope.
- 285.2 Definitions.
- 285.3 Prohibitions.
- 285.4 Enforcement.
- 285.5 Civil procedures.
- 285.6 Civil penalties.

Subpart B—Atlantic Bluefin Tuna (*Thunnus thynnus*)

- 285.20 Fishing seasons.
- 285.21 Vessel permits.
- 285.22 Quotas.
- 285.23 Incidental catch.
- 285.24 Catch rate limits.
- 285.25 Purse seine vessel requirements.
- 285.26 Size classes.
- 285.27 Tag and release program.
- 285.28 Dealer permits.
- 285.29 Dealer record keeping and reporting.
- 285.30 Metal tags.
- 285.31 Prohibitions.
- 285.32 Civil penalties.

Authority: 16 U.S.C. 971 et seq.

Subpart A—General

§ 285.1 Purpose and scope.

(a) The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971-971h) authorizes the Secretary to implement the recommendations of the International Commission for the Conservation of Atlantic (ICCAT). The Secretary's authority under the Act has

been delegated to the Assistant Administrator.

(b) This part implements the ICCAT recommendations for purposes and vessels subject to the jurisdiction of the United States.

(c) This part does not apply to any person or vessel authorized by the Commission, the Regional Director, the Director of the Southeast Fisheries Center, or any State upon approval by the Regional Director, to engage in fishing for research purposes.

(d) Under Section 9(d) of the Act, determinations made by the Assistant Administrator that the provisions of this part apply within the territorial sea of the United States adjacent to, and within the boundaries of, the States of Texas, Louisiana, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Rhode Island, Massachusetts, New Hampshire, and the Commonwealths of Puerto Rico and the Virgin Islands, and, with the exceptions of §§ 285.22(a) and (d), 285.22(f)(2), 285.23(b), and 285.24(e), within the territorial sea of the United States adjacent to, and within the boundaries of the State of Maine, continue in effect.

§ 285.2 Definitions.

The terms used in this part have the following meanings (definitions in the Act are repeated here to aid understanding of the rules):

"Act" means the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971h.

"Albacore" means the fish species *Thunnus alalunga*.

"Angling" means fishing for or catching, or the attempted fishing for or catching, fish by any person (angler) with a hook attached to a line which is hand held or by rod and reel for this purpose.

"Assistant Administrator" means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

"Atlantic bluefin tuna" means the fish species *Thunnus thynnus thynnus*. Size classes for Atlantic bluefin tuna are defined in § 285.26.

"Atlantic bonito" means the fish species *Sarda chiliensis* or *Sarda sarda*.

"Authorized Officer" means

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement agent or Special Agent of the NMFS;

(c) Any officer designated by the head of any Federal or State agency which

has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

"Bigeye tuna" means the fish species *Thunnus obesus*.

"Buy-boat" means any vessel used by a dealer in purchasing or receiving Atlantic bluefin tuna from any person or fishing vessel engaged in fishing for any tuna.

"Cargo vessel" means any fishing vessel used for transporting fish or fish products.

"Commercial activity" means any activity, other than fishing, of industry, trade, or commerce, including but not limited to the buying or selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

"Commission" means the International Commission for the Conservation of Atlantic Tunas established under Article III of the Convention.

"Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro, Brazil on May 14, 1966, 20 U.S.T. 2887, TIAS 6787, including any amendments or protocols thereto, which are binding upon the United States.

"Dealer" means any person who engages in a commercial activity with respect to a regulated species or parts thereof.

"Dressed weight" means the weight of a fish after it has been gilled, gutted, beheaded, and definned.

"Fish" or "fishing" means the catching or fishing for, or the attempted catching or fishing for, any species of fish covered by the Convention, or any activities in support of fishing.

"Fishing trip" means the time period between when a fishing vessel departs from port to carry out fishing operations and the time such vessel returns to port or offloads any of its catch.

"Fishing vessel" means any vessel engaged in fishing, processing, or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

"Fishing week" means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time on the following Saturday.

"Fork length" means a measurement of the length of Atlantic bluefin tuna taken in a straight line along the middle of the lateral surface from the tip of the snout to the fork of the tail.

"Handgear" means handline, harpoon, or rod and reel.

"Handline" or "handline gear" means fishing gear which is released by hand and consists of one main line of variable length to which is attached one or two leaders and hooks. Handlines are retrieved only by hand, and not by mechanical means.

"Longline" or "longline gear" means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or groundline with three or more gangions and hooks. A longline may be retrieved by hand or mechanical means.

"Metal tag" means the flexible, selflocking ribbon of metal issued by the NMFS for the identification of Atlantic bluefin tuna under § 285.30.

"Metric ton" (mt) means 2204.6 pounds (1000 kilograms).

NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

"Person" means any individual, partnership, corporation, or association subject to the jurisdiction of the United States.

"Plastic tag" means the plastic or combination plastic and metal marker issued for the tag and release program under § 285.27.

"Purse seining" means fishing for or catching a regulated species by means of an encircling net and associated gear.

"Regional Director" means:

(a) For purposes of Atlantic bluefin tuna, the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930-3799; and

(b) For purposes of yellowfin tuna, the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

"Regulated species" means albacore, Atlantic bluefin tuna, bigeye tuna, skipjack tuna, or yellowfin tuna.

"Regulatory area" means all waters of the Atlantic Ocean including adjacent seas, except the waters over which the individual States exercise fishery management jurisdiction unless the Assistant Administrator has determined otherwise in accordance with this part, as noted in § 285.1(d).

"Reporting week" means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time the following Saturday.

"Round" or "round weight" means a fish or the weight of a fish before gilling, gutting, beheading, and definning.

"Secretary" means the Secretary of Commerce or an individual to whom appropriate authority has been delegated.

"Short ton" (st) means 2,000 pounds (907 kilograms).

"Skipjack tuna" means the fish species *Katsuwonus (= Euthynnus) pelamis*.

"State" means any State of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Virgin Islands, and territories and possessions of the United States.

"Tuna" means albacore, Atlantic bluefin tuna, bigeye tuna, skipjack tuna or yellowfin tuna.

"Yellowfin tuna" means the fish species *Thunnus albacares*.

§ 285.3 Prohibitions.

It is unlawful—

(a) For any person in charge of a fishing vessel or for any fishing vessel subject to the jurisdiction of the United States to engage in fishing or to land any tuna in violation of these rules.

(b) For any person to land, transship, ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which the person knows, or should have known, was taken or retained contrary to this part, without regard to the citizenship of the person or registry of the fishing vessel which took the fish.

(c) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish reports required by this part.

(d) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to obstruct or to refuse to allow any authorized officer to enter the dealer's premises or to board the fishing vessel to search or inspect its catch, equipment, books, documents, records, or other articles, or to question the persons in the dealer's premises or onboard the fishing vessel under the provisions of this part.

(e) For any person to import from any country any regulated species in any form subject to regulation under a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry under this part.

§ 285.4 Enforcement.

(a) The Secretary, the Secretary of the Department in which the U.S. Coast Guard is operating, and the U.S. Customs Service shall enforce jointly this part and the provisions of the Act.

(b) Enforcement Agents of the NMFS shall enforce provisions of this part and the Act on behalf of the Secretary and may take any actions authorized with respect to enforcement. By agreement,

the Secretary may utilize the personnel, services, and facilities of any other Federal Agency to enforce these rules and the Act. By agreement, the Secretary also may designate personnel of a State to enforce these rules and the Act.

§ 285.5 Civil procedures.

(a) The method for assessment of civil penalties for violation of these rules or the Act shall be in accordance with the procedures set forth in 15 CFR Part 904.

(b) In view of the perishable nature of tuna when not processed otherwise than by chilling or freezing, authorized officers may cause to be sold, for not less than its reasonable market value, unchilled or unfrozen tunas that may be seized and forfeited under the Act and this part.

(c) The purchaser shall remit the proceeds of any sale made under paragraph (b) of this section to the Regional Director. The Regional Director shall deposit and retain the proceeds in the Suspense Account of the NMFS (Account No. DO 6875—Phase 19) after deducting the reasonable cost of the sale, if any, pending judgment of the court or other disposition of the case.

§ 285.6 Civil penalties.

Any person who—

(a) Violates any provision of § 285.3 (a) or (b) of this part shall be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for any subsequent violation;

(b) Violates any provision of § 285.3 (c) or (d) of this part shall be assessed a civil penalty of not more than \$1,000 for a first violation and a civil penalty of not more than \$5,000 for any subsequent violation;

(c) Violates any provision of § 285.3 (e) shall be assessed a civil penalty of not more than \$100,000.

Subpart B—Atlantic Bluefin Tuna ("Thunnus thynnus thynnus")

§ 285.20 Fishing seasons.

(a) *Commencement.* Fishing in the regulatory area for Atlantic bluefin tuna will begin.

(1) On January 1 of each year:

(i) For vessels permitted in the Purse Seine category fishing under the quota specified in § 285.22 (d).

(ii) For anglers fishing for young school, school, and medium Atlantic bluefin tuna under the quota specified in § 285.22(e).

(iii) For vessels permitted in the Incidental Catch category fishing under the quota specified in § 285.22(f), and

(iv) For anglers participating in the tag and release program under § 285.27.

(2) On June 1 of each year:

(i) For vessels permitted in the General category fishing under the quota specified in § 285.22(a), and

(ii) For vessels permitted in the Harpoon Boat category fishing under the quota specified in § 285.22(b).

(3) On August 15 of each year:

(i) For vessels permitted in the Purse Seine category fishing under the quota specified in § 285.22(c).

(4) Consistent with the Convention, the Act and this part, the Assistant Administrator may change the commencement date under this section for any vessel permit category or person (angler) if the Assistant Administrator determines that the changed date will enable scientific research on the status of the stock to be conducted more effectively and will not prevent the quotas for the affected fishery from being caught, based upon historical catch data or other relevant information. The Assistant Administrator shall publish a notice in the *Federal Register* of any change in the commencement date(s) for fishing under this section at least 60 days before commencement of the affected fishery.

(b) *Closure.* (1) The Assistant Administrator shall monitor catch and landing statistics of Atlantic bluefin tuna by vessels other than those permitted in the Purse Seine category. On the basis of these statistics, the Assistant Administrator shall project a date when the catch of Atlantic bluefin tuna will equal any quota under § 285.22, and shall publish a notice in the *Federal Register* stating that fishing for or retaining Atlantic bluefin tuna under that quota must cease on that date at a specified hour.

(2) Angling for Atlantic bluefin tuna under a tag and release program under § 285.27 may continue even after a quota closure.

(3) Any vessels permitted in the Purse Seine category may fish under the quotas specified in § 285.22(c) and § 285.22(d) only until the allocation(s) assigned or transferred under § 285.24(a) to that vessel is reached. Upon reaching its individual vessel allocation for a particular size class of Atlantic bluefin tuna, a vessel will be deemed to have been given notice that the fishery for such tuna is closed to that vessel.

(c) *State actions.* Nothing in this section will be construed to invalidate any more restrictive commencement or closure date established by any State in waters under its jurisdiction.

§ 285.21 Vessel permits.

(a) *Permit requirements.* Each vessel which fishes for or takes Atlantic bluefin tuna, except vessels being used

by anglers fishing for young school, school, or medium Atlantic bluefin tuna under § 285.24(d), must have an appropriate permit issued under this section.

(b) *Categories of permits.* The Regional Director shall issue a permit to each vessel for only one of the following categories: General (handgear), Harpoon Boat, Purse Seine, or Incidental Catch. A permitted vessel is entitled to fish only under the quota for the category in which it is permitted, and must use gear appropriate to that category. Anglers also may fish for young school, school, and medium Atlantic bluefin tuna from a vessel that has a permit for other types of fishing, but anglers shall remain subject to provisions of this subpart applicable to angling. The Regional Director shall issue permits to catch and retain Atlantic bluefin tuna under § 285.22 (c) and (d) only to owners of those purse seine vessels, or their replacements, which were granted allocations under this subpart and landed Atlantic bluefin tuna in the fishery for Atlantic bluefin tuna during the period 1980 through 1982. The Regional Director shall not issue a permit to take Atlantic bluefin tuna under this subpart to any vessel which was replaced with another vessel and retired from the purse seine fishery during the period 1980 through 1982, unless that vessel is replacing another vessel being retired from the fishery.

(c) *Application procedure.* A vessel owner applying for an Atlantic bluefin tuna permit under this section shall submit a completed permit application signed by the owner on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective. The application must include the name and address of the vessel owner, the name of the vessel, the port where the vessel is docked, the official state registration or U.S. Coast Guard documentation number, the length of the vessel, the tonnage (if known), the area to be fished, and the category of the permit. Except for purse seine vessels, an owner may change the category of the vessel's permit by notifying the Regional Director in writing before May 15.

(d) *Issuance.* (1) The Regional Director shall issue a permit within 30 days of receipt of a completed application.

(2) The Regional Director shall notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the

application will be considered abandoned.

(e) *Duration.* A permit issued under this section remains valid until it is suspended, revoked, or expires. Except with respect to purse seine permits, a permit issued under this section expires when the owner or name of the vessel changes.

(f) *Alteration.* A permit issued under this section which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* The Regional Director may issue replacement permits. An application for a replacement permit is not considered a new application.

(h) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the vessel and/or owner to which it is issued.

(i) *Display.* A permit issued under this section must be carried on board the vessel at all times. The permit must be displayed for inspection upon request of any Authorized Officer or any employee of the NMFS designated by the Regional Director for such purpose.

(j) *Modification.* The Assistant Administrator may modify, suspend, or revoke permits issued under this section in connection with violations of the Act, or any of the Act's implementing rules. Any action to modify, suspend or revoke a permit issued under this section will follow the procedures of 15 CFR Part 904.

(k) *Fees.* No fee is required for any permit issued under this section.

(l) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the vessel owner shall report the change in writing to the Regional Director.

(Approved by the Office of Management and Budget under OMB control number 0648-0097)

§ 285.22 Quotas.

The total annual amount of Atlantic bluefin tuna which may be caught and retained by persons and vessels subject to U.S. jurisdiction in the regulatory area is 1,529 st (1,387 mt), subdivided as follows:

(a) *General.* That total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the General category under § 285.21(b) is 650 st (590 mt). No more than 625 st (567 mt) of this quota may be taken before September 15.

(b) *Harpoon-boat.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 60 st (54 mt).

(c) *Purse Seine—Giants.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the area regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 300 st (272 mt).

(d) *Purse Seine—School fish.* The total amount of Atlantic bluefin tuna than 120 cm fork length (47 inches) which may be caught and retained in the area regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 140 st (127 mt).

(e) *Angling.* The total amount of young school, school, and medium Atlantic bluefin tuna which may be caught and retained in the regulatory area by anglers is 99 st (90 mt). No more than 89 st (81 mt) of this quota may be fish less than 120 cm (47 inches) fork length.

(f) *Incidental.* The total amount of Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Incidental Catch category under § 285.21(b) is 151 st (137 mt). This quota is further subdivided as follows:

(1) 145 st (132 mt) for longline vessels. No more than 115 st (104 mt) may be taken in the area south and west of 36°00' N. latitude.

(2) 6 st (5 mt) for vessels fishing for species of fish other than tuna.

(g) *Inseason adjustment amount.* The total amount of Atlantic bluefin tuna which will be held in reserve for inseason adjustments is 129 st (117 mt) of fish greater than 47 inches fork length. The Regional Director may allocate any portion (from zero to 100 percent) of this amount to any segment or segments of the fishery. The Regional Director shall publish a notice of allocation of any inseason adjustment amount in the Federal Register at least 72 hours before such allocation is to become effective. Before making any such allocation, the Regional Director shall consider the following factors:

(1) The usefulness of information obtained from catches of the particular gear segment of the fishery for biological sampling and monitoring the status of the stock;

(2) The catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made;

(3) The projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season; and

(4) The estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

§ 285.23 Incidental catch.

(a) Subject to the quota in § 285.22(c), purse seine vessels permitted in the purse seine category under § 285.21 and fishing for giant Atlantic bluefin tuna may catch incidentally, during any fishing trip, Atlantic bluefin tuna less than 77 inches fork length, provided that the total amount of such tuna taken does not exceed 10 percent by weight of the total amount of giant Atlantic bluefin tuna onboard the vessel at the end of each fishing trip.

(b) Subject to the quota in § 285.22(d) and individual vessel allocations, purse seine vessels permitted in the purse seine category under § 285.21 and fishing for tunas other than Atlantic bluefin tuna may catch incidentally and retain, during any fishing trip, Atlantic bluefin tuna, provided that the total amount of Atlantic bluefin tuna taken does not exceed 10 percent by weight of all other tuna species onboard the vessel at the end of each fishing trip. Any vessel that has not taken its allocation under § 285.22(d) at the seasonal termination of the vessel's fishing for species of tuna other than Atlantic bluefin tuna, may add the remainder of its allocation to the vessel's allocation of giant Atlantic bluefin tuna under § 285.22(c).

(c) *Attribution.* Atlantic bluefin tuna caught incidentally by purse seine vessels fishing for an allocation of a particular size class of Atlantic bluefin tuna shall be applied to that vessel's allocation for such size class Atlantic bluefin tuna.

(d) *Herring, mackerel, and menhaden purse seine vessels and vessels using fixed gear other than longlines or traps (pounds, weirs, and gillnets).* Subject to the quotas in § 285.22, any person operating a vessel fishing with these types of gear principally for species of fish other than tuna and possessing an Incidental Catch permit issued under § 285.21 may catch, during any fishing trip, Atlantic bluefin tuna of any size class, provided that, the total amount of Atlantic bluefin tuna taken does not exceed two percent, by weight, of all other fish onboard the vessel at the end of each fishing trip.

(e) *Traps.* Subject to the quotas in § 285.22, any person operating a vessel possessing an Incidental Catch permit issued under § 285.21 which catches Atlantic bluefin tuna incidentally while fishing with traps, may retain Atlantic bluefin tuna, provided, that such tuna do not exceed two percent, by weight, of the total amount of all other fish species caught within the preceding 30-day period.

(f) *Longlines.* Subject to quotas in § 285.22, any person operating a vessel using longline gear possessing an Incidental Catch permit issued under § 285.21 may land Atlantic bluefin tuna as incidental catch. The amount of Atlantic bluefin tuna may not exceed:

(1) Two fish per vessel, per trip, south of 36°00'N. latitude, and

(2) Two percent by weight of all other fish onboard the vessel at the end of each fishing trip, north of 36°00'N. latitude.

(g) *Rod and Reel.* Subject to the quotas in § 285.22, any person operating a vessel using rod and reel gear in the Gulf of Mexico and possessing an Incidental Catch permit issued under § 285.21 may catch and retain annually one giant Atlantic bluefin tuna as an incidental catch. The permit holder shall report his/her giant Atlantic bluefin tuna which was caught and retained to the nearest NMFS enforcement office within 24 hours of landing and make the tuna available for inspection and attachment of a metal tag. No such Atlantic bluefin tuna shall be sold or transferred to any person for a commercial purpose.

§ 285.24 Catch rate limits.

(a) From June 1, vessels permitted in the General category under § 285.21(b), may catch only one giant Atlantic bluefin tuna per day per vessel. On or about August 7, the Assistant Administrator shall review dealer and buy-boat reports to determine the total catch of giant Atlantic bluefin tuna. If the Assistant Administrator determines that 30 percent or more of the General category quota of giant Atlantic bluefin tuna is caught, the allowable catch rate limit will remain at one giant Atlantic bluefin tuna per day per vessel; if the Assistant Administrator determines that less than 30 percent of the quota has been caught, the allowable catch rate limit shall be increased to two giant Atlantic bluefin tuna per day per vessel. On or about September 7, the Assistant Administrator shall review dealer and buy-boat reports to determine the total catch of giant Atlantic bluefin tuna. If the Assistant Administrator determines that 85 percent or more of the General category quota of giant Atlantic bluefin tuna is caught, an allowable catch rate limit of one giant Atlantic bluefin tuna per day per vessel either shall remain or be reestablished. If the Assistant Administrator determines that 70 or more percent and less than 85 percent of the quota has been caught, the allowable catch rate limit shall be set at two giant Atlantic bluefin tuna per day

per vessel. If more than 60 percent and less than 70 percent of the quota has been caught, the allowable catch rate limit shall be set at three giant Atlantic bluefin tuna per day per vessel. If the Assistant Administrator determines that 60 percent or less of the quota has been caught, the allowable catch rate limit shall be increased to four giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator shall publish a notice in the Federal Register of any determinations in allowable catch rate limits made under this paragraph. Each vessel operator may possess at any time only the number of giant Atlantic bluefin tuna allowed under the daily catch rate limit in effect at that time.

(b) Vessels permitted in the Harpoon Boat category are not restricted in their catch rate of giant Atlantic bluefin tuna.

(c) Persons angling in the regulatory area may catch and retain no more than four young school, school, or medium Atlantic bluefin tuna each day, only one of which may be a medium: Provided that only one medium Atlantic bluefin tuna per day may be caught and retained per vessel regardless of the number of anglers onboard. No angler or group of anglers may possess at any time more than this daily catch rate limit of these size classes of Atlantic bluefin tuna.

§ 285.25 Purse seine vessel requirements.

(a) *Mesh size.* Any owner or operator of a vessel with a permit issued under § 285.21(b) conducting a directed fishery for Atlantic bluefin tuna with nets, other than a trap net, shall use a purse seine net with a mesh size equal to or smaller than 4.5 inches in the main body (stretched when wet) and which has at least 24 count tread throughout the net.

(b) *Exemption.* The Regional Director may exempt any person from the mesh restrictions in paragraph (a) of this section if it is determined that the net sought to be exempted will not result in significant injury or mortality to Atlantic bluefin tuna which are encircled by the net but manage to escape.

(c) *Inspection.* Any owner or operator of a purse seine vessel with a permit issued under § 285.21(b) shall request an inspection of the vessel and fishing gear

by an enforcement agent of the NMFS before commencing any fishing trip and before offloading any Atlantic bluefin tuna. The vessel owner or operator shall request such inspection at least 24 hours before commencement of a fishing trip or offloading by calling (617) 281-3600 extension 252; or (617) 992-7711.

(d) *Vessel allocations.* (1) Purse seine vessel permit holders shall apply for an allocation of Atlantic bluefin tuna from the quotas specified in § 285.22 (c) and (d). The permit holder shall apply for this allocation in writing to the Regional Director by June 1, 1983 and by April 15 of subsequent years. The permit holder shall specify the particular size class or classes of Atlantic bluefin tuna for which the vessel will fish. The owner shall supply documentation of the vessel's stockholders, owners, partners, or association structure.

(2) The Regional Director shall review these applications for allocations of Atlantic bluefin tuna by June 15, 1983, and by May 1 in subsequent years, and make equal allocations of the available size classes of Atlantic bluefin tuna among the permits issued under § 285.21(b). Such allocations are freely transferable among purse seine vessel permit holders. Any purse seine vessel permit holder intending to fish for more than one allocation in any fishing season shall provide written notice of such intent to the Regional Director 15 days before commencing fishing in that season. Purse seine vessel permit holders who transfer their allocation to another purse seine vessel permit holder shall not fish their permitted vessel in any fishery in which Atlantic bluefin tuna might be caught.

§ 285.26 Size classes.

For any Atlantic bluefin tuna which is landed with the head removed, it is a rebuttable presumption for purposes of this subpart that the tuna, when caught, fell into a size class in accordance with the following table. For this purpose, all measurements must be taken in a straight line along the middle of the lateral surface from the forward most part of the beheaded fish to the fork of the tail. Approximate round weights are given for illustrative purposes only.

Original size class (fork length)	Approximate round weights	Length with head off
Young school tuna: Less than 28 inches (86 cm)	Less than 14 pounds	Less than 18 inches (46 cm)
School tuna: Equal to 28 inches (86 cm) but less than 57 inches (145 cm)	From 14 pounds but less than 135 pounds	18 inches (46 cm) but less than 40 inches (102 cm)
Medium tuna: Equal to 57 inches (145 cm) but less than 77 inches (196 cm)	From 135 pounds but less than 310 pounds	40 inches (102 cm) but less than 54 inches (137 cm)
Giant tuna: 77 inches (196 cm) or more	310 pounds or more	54 inches (137 cm) or more

§ 285.27 Tag and release program.

Notwithstanding other provisions of these rules, an angler may fish for Atlantic bluefin tuna under a tag and release program, provided the angler (a) tags all Atlantic bluefin tuna so caught with plastic tags issued under this section, and (b) releases and returns such fish to the sea immediately after tagging and with a minimum of injury. To participate in this program, an angler shall obtain plastic tags, reporting cards, and detailed instructions for their use by writing to the Cooperative Game Fish Tagging Program, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149-1099.

(Approved by the Office of Management and Budget under OMB control number 0648-0031)

§ 285.28 Dealer permits.

(a) *General.* A dealer purchasing or receiving Atlantic bluefin tuna from any person or vessel which catches such tuna shall have a valid permit required under this section. If such purchase or receipt is made from a buy boat, the buy boat must have a valid permit under paragraph (l) of this section.

(b) *Application.* An applicant shall apply for a dealer permit in writing on an appropriate form obtained from the Regional Director. The application must be signed by the applicant, and be submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. Applications must contain the name, principal place of business, mailing address, and telephone number of the applicant.

(c) *Issuance.* (1) The Regional Director shall issue a permit within 30 days of receipt of a completed application; provided, however, that the Regional Director may exercise discretion not to issue a permit to any applicant who has violated any provision of the Act or this part.

(2) The Regional Director shall notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* Any permit issued under this section remains valid until December 31 of the year for which it is issued, unless suspended or revoked.

(e) *Alteration.* Any permit which is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* The Regional Director may issue replacement permits.

An application for a replacement permit is not considered a new application.

(g) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the dealer to whom it is issued.

(h) *Inspection.* The dealer shall keep the permit issued under this section at his/her principal place of business. The permit must be displayed for inspection upon request of any Authorized Officer, or any employee of the NMFS designated by the Regional Director for such purpose.

(i) *Modification.* The Assistant Administrator may modify, suspend, or revoke permits issued under this section in connection with violations of the Act, or any of the Act's implementing rules. Any action to modify, suspend or revoke a permit issued under this section will follow the procedures of 15 CFR Part 904.

(j) *Fees.* No fee is required for any permit issued under this section.

(k) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the dealer issued a permit shall report the change in writing to the Regional Director.

(l) *Buy-boats.* Each buy-boat must have a dealer permit issued under this section. The Regional Director shall not issue a dealer permit under this section to any vessel which has a valid permit issued under § 285.21. The Regional Director shall not issue a dealer permit to a buy-boat unless the owner or operator of the buy-boat agrees in writing to allow an individual authorized by the Regional Director to accompany the buy-boat on any trip to observe operations. The Regional Director shall provide reasonable notice to the owner or operator of any buy-boat that an individual will be placed on board. The Regional Director shall reimburse the owner of any buy-boat for any expenses which the Regional Director determines to be reasonable and which are directly related to the placement of an individual on that buy-boat. Buy-boats may not purchase or transport Atlantic bluefin tuna caught incidentally by longlines.

(Approved by the Office of Management and Budget under OMB control number 0648-0097)

§ 285.29 Dealer recordkeeping and reporting

Any person issued a dealer permit under § 285.28:

(a) Shall submit to the Regional Director a daily report on a reporting card provided by the NMFS, within 24 hours of the purchase or receipt of each giant Atlantic bluefin tuna. Each reporting card must be signed by the vessel permit holder or vessel operator

and must show the Atlantic bluefin tuna vessel permit number, metal tag number affixed to the fish by the dealer or assigned by an Authorized Officer, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where caught.

(b) Shall submit to the Regional Director a weekly report on forms supplied by the NMFS, within two days after the end of each reporting week in which Atlantic bluefin tuna were purchased or received. Each report must specify accurately and completely: The number of tuna purchases or received; location where each tuna was caught; the disposition of the tuna (names, addresses and, where applicable, country of destination); the source of the tuna (names and addresses); date; metal tag numbers (where applicable); round or dressed weight and fork length (by individual tuna); and any other information requested by the Regional Director. Also, dealers using buy-boats, in addition to the information required above, shall include the precise time when any tuna were received on the buy-boat;

(c) Shall allow an Authorized Officer, or any employee of the NMFS designated by the Regional Director for this purpose, to inspect and copy any records of transfers, purchases, or receipts of Atlantic bluefin tuna;

(d) Shall retain in his/her possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(e) Each operator of a buy-boat, in addition to the above, shall notify the Regional Director of any offloading and, shall request a vessel inspection at least six hours before such offloading by calling (617) 281-3600, extension 252, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, local time, or at all other times during the day and weekends, by calling (617) 992-7711. In making the request for inspection, the owner or operator of the buy-boat or his/her designated representative shall provide his/her name, the buy-boat's name and permit number, the number of tuna received, and the location and anticipated time of landing in port.

(Approved by the Office of Management and Budget under OMB control number 648-0013)

§ 285.30 Metal tags.

(a) *Issuance of tags.* The Regional Director shall issue numbered metal tags to each person receiving a dealer's permit under § 285.28.

(b) *Transfer of tags.* Tags issued under this section are not transferable.

(c) *Affixing tags.* (1) A dealer or his/her agent shall affix a metal tag to each giant Atlantic bluefin tuna immediately upon its offloading from a vessel. He/she must affix the metal tag to the tuna between the fifth dorsal finlet and the keel.

(2) Any person who catches a giant Atlantic bluefin tuna and does not transfer it to a permitted dealer shall contact the nearest NMFS enforcement office within 24 hours of landing such tuna and make the tuna available for inspection and attachment of a metal tag.

(d) *Removal of tags.* A metal tag affixed to any giant Atlantic bluefin tuna must remain on the tuna until the tuna is either cut into portions or sold for export from the United States. If the tuna or tuna parts subsequently are packaged for transport for domestic commercial use or for export, the tag must be attached to the outside of the package or container and the tag number must be written legibly and indelibly on the outside of any package or container.

§ 285.31 Prohibitions.

It is unlawful for any person or vessel subject to the jurisdiction of the United States:

(a) To fish for or catch Atlantic bluefin tuna without a valid permit required under § 285.21 and carried onboard the vessel;

(b) To fish for or catch Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 285.20, except under the provisions of § 285.27;

(c) To fish for, catch, or possess Atlantic bluefin tuna in excess of the quotas specified in § 285.22 except under the provisions of § 285.27;

(d) To fish for, catch, or possess Atlantic bluefin tuna in excess of the catch limits specified in § 285.24 except under the provisions of § 285.27;

(e) To fish for or catch Atlantic bluefin tuna in excess of any vessel allocation made pursuant to § 285.24;

(f) To fish for or catch Atlantic bluefin tuna in a directed fishery with purse seine nets without an allocation made pursuant to § 285.24;

(g) To fish for or catch Atlantic bluefin tuna in a directed fishery with nets other than those specified in § 285.25;

(h) To fish for or catch Atlantic bluefin tuna within 100 yards (91.5

meters) of the cork line of a purse seine net used by a vessel conducting scientific research operations authorized by the NMFS;

(i) To catch and retain Atlantic bluefin tuna in excess of the incidental catch provisions under § 285.23;

(j) To land any Atlantic bluefin tuna in forms other than round, or with the head removed;

(k) To retain any Atlantic bluefin tuna caught under a tag and release permit issued under § 285.27;

(l) To purchase, receive, or transfer any Atlantic bluefin tuna at sea from a person or vessel engaged in fishing for such tuna without a valid dealer permit for buy-boat operations issued under § 285.28;

(m) To sell, offer for sale, or transfer any Atlantic bluefin tuna to any person or vessel other than to a person or vessel with a permit issued under § 285.28;

(n) To sell, offer for sale, or transfer to any person any giant Atlantic bluefin tuna caught incidentally in the Gulf of Mexico with rod and reel gear under § 285.23(g);

(o) To engage in fishing with a vessel holding a permit under § 285.21 unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings under control (secured to the catching vessel or boated) any Atlantic bluefin tuna with no assistance from other vessels, except in circumstances where the safety of the vessel or its crew is jeopardized or due to other circumstances beyond the control of the operator;

(p) To fail to release immediately with a minimum of injury any Atlantic bluefin tuna which will not be retained;

(q) To fail to affix immediately to any giant Atlantic bluefin tuna, between the fifth dorsal finlet and the keel, an individually numbered metal tag when the tuna has been received or purchased by that person for a commercial purpose from any person or vessel having caught such tuna;

(r) To remove any metal tag affixed to an Atlantic bluefin tuna under § 285.30 before removal is allowed under that section, or fail to write the tag number on the shipping package or container as prescribed by that section;

(s) To purchase or transport with a buy-boat any Atlantic bluefin tuna captured incidentally by longlines;

(t) To begin fishing or offloading from any purse seine vessel to which a permit has been issued under § 285.21 any Atlantic bluefin tuna without first requesting an inspection of the vessel in accordance with § 285.25;

(u) To fail to report the catching of any Atlantic bluefin tuna to which a plastic tag has been affixed under a bona fide tag and release program conducted by the NMFS or any other recognized scientific organization;

(v) To falsify or fail to make, keep, maintain, or submit any reports, or other record required by this subpart;

(w) To refuse to allow an Authorized Officer to make inspections for the purpose of checking any records relating to the catching, harvesting, landing, purchase, or sale of any Atlantic bluefin tuna required by this subpart;

(x) To make any false statement, oral or written, to an Authorized Officer concerning the catching, harvesting, landing, purchase, sale, or transfer of any Atlantic bluefin tuna;

(y) To fish for or catch Atlantic bluefin tuna with longline gear except as provided in § 285.23(f);

(z) To fish for or catch Atlantic bluefin tuna with longline gear, or while having longline gear on board, if the vessel is permitted in the General category under § 285.21;

(aa) To violate any other provision of this subpart, the Act, or any other rules promulgated under the Act.

§ 285.32 Civil penalties.

(a) Any person who violates paragraphs (a) through (t) inclusive, or paragraphs (w) through (z), inclusive, of § 285.31 shall be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for a subsequent violation.

(b) Any person who violates paragraphs (u) or (v), of § 285.31 shall be assessed a civil penalty of not more than \$1,000, and a civil penalty of not more than \$5,000 for a subsequent violation.

(c) Any person who violates paragraph (aa) of § 285.31 shall be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

(FR Doc. 83-8207 Filed 3-29-83; 8:45 am)

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 48, No. 62

Wednesday, March 30, 1983

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meat Import Limitations; Second Quarterly Estimate

Public Law 88-482, enacted August 22, 1964, as amended by Public Law 96-177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1983 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

In accordance with the requirements of the Act, I have made the following estimates:

1. As published on December 30, 1982 (47 FR 58328), the estimated aggregate quantity of meat articles prescribed by subsection 2(c) as adjusted by subsection 2(d) of the Act for calendar year 1983 is 1,119 million pounds.

2. The second quarterly estimate of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1983 is 1,224 million pounds.

Done at Washington, D.C., this 24th day of March 1983.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 83-8201 Filed 3-25-83; 4:19 pm]

BILLING CODE: 3410-10-M

Section 22 Import Fees; Determination of Quarterly Import Fees On Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the second calendar quarter of 1983.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202-447-6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4940, dated May 5, 1982, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the adjusted daily spot (domestic) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange), expressed in United States cents per pound, in bulk, is less than the market stabilization price. The market stabilization price for the second calendar quarter of 1983 is 20.73 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter: (1) exceeds the market stabilization price by more than one cent, the fee then in

effect shall be decreased by one cent; or (2) is less than the market stabilization price by more than one cent, the fee then in effect shall be increased by one cent. Paragraph (c)(i) of Headnote 4 further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus one cent.

The average of the adjusted daily spot (domestic) price quotations for raw sugar for the applicable period prior to the second calendar quarter of 1983 has been calculated to be 20.7625 cents per pound. This results in a fee of 0.00 cent per pound for item 956.15, since the adjusted average spot price is greater than 20.73 cents. Accordingly, the fee for items 956.05 and 957.15 for the second calendar quarter of 1983 is 1.00 cent per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the Federal Register prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the second calendar quarter of 1983 shall be as follows:

Item	Fee
956.05	1.00 cent per pound.
956.15	0.00 cent per pound.
957.15	1.00 cent per pound.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iv) of Headnote 4.

Signed at Washington, D.C., on March 24, 1983.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 83-8200 Filed 3-25-83; 4:10 pm]

BILLING CODE 3410-10-M

Forms Under Review by Office of Management and Budget

March 25, 1983.

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

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

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

Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzer, Acting Statistical Clearance Officer, (202) 447-6201.

Revised

- Agricultural Marketing Service
7 CFR 70, Regulations for Voluntary Grading of Poultry Products and Rabbit Products and U.S. Classes, Standards and Grades

PY-32, PY-33, PY-234

On occasion, monthly

Businesses: 25,960 responses; 5,181 hours; not applicable under 3504(h)

Merlin L. Nichols, Jr. (202) 447-3506

- Food Safety and Inspection Service
Regulations Governing Meat Inspection
MP-401, 403-10, 8822-1, 130-A, 8822-2, 441, 2, 404, 408, 409-1, 410, 115, 8200-2

On occasion

Businesses: 2,055,328 responses; 154,771 hours; not applicable under 3504(h)

William C. Hauser, (202) 447-8420

- Statistical Reporting Service
Barley Variety Survey
Annually
Farms: 8,700 responses; 725 hours; not applicable under 3504(h)
Lee Sandberg, (202) 447-6820

Extension

- Animal and Plant Health Inspection Service
Virus-Serums-Toxins Regulations—
Recordkeeping
On occasion
Businesses: 986 responses; 479 hours; not applicable under 3504(h)
Dr. Albert Morgan, (301) 436-7760
- Agricultural Marketing Service
Apricots grown in Designated Counties in Washington—Marketing Order 922
On occasion, annually
Businesses: 142 responses; 292 hours; not applicable under 3504(h)
William J. Doyle, (202) 447-5975
Marshall L. Dantzer,
Acting Statistical Clearance Officer.

[FR Doc. 83-8129 Filed 3-29-83; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

Air Florida, Inc. Transatlantic Route Realignment Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting *Air Florida, Inc. Transatlantic Route Realignment Proceeding*, Docket 41391, and Order to Show Cause: Order 83-3-128 (Consolidation of Dockets 39322 and 41169).

SUMMARY: The Board proposes to: (1) Grant Air Florida authority to serve Frankfurt, Federal Republic of Germany, (2) realign certain transatlantic route authority described on route 197-F of the certificate of Air Florida (including Frankfurt) by placing it on one segment, and (3) permit Air Florida to integrate that authority, subject to bilateral agreements, with its Miami-Prestwick and Miami-London (Route 261) routes.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than April 21, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 43191, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all affected carriers and the Departments of State and Transportation.

A statement of objections must cite the docket number and must include a

summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and issue the proposed certificate.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT:

Ira Leibowitz, (202) 673-5203, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 24, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-8160 Filed 3-29-83; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under Section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
83-3-110	Resort Air, Inc.	Apr. 13, 1983.
83-3-111	Air Marianas, Inc.	Apr. 13, 1983.
83-3-112	AAR Western Skyways, Inc.	Apr. 13, 1983.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

For Further Information Contact: Mr. James Ransom for Order 83-3-110 at (202) 673-5088 and Ms. Anne W. Stockvis for Orders 83-3-111 and 83-3-112 at (202) 673-5088; Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

By the Civil Aeronautics Board: March 24, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-8189 Filed 3-29-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States. Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00269R. Applicant: Wesley Medical Center, 550 N. Hillside, Wichita, KS 67214. Instrument: Electron Linear Accelerator, Therac 20 with Accessories. Manufacturer: Atomic Energy of Canada, Canada. Intended Use of Instrument: The article is intended to be used to study the responses of malignancy in humans to radiation treatment, clinical side effects associated with such treatment and formulation for further treatment regimens. The instrument will be used for educational purposes in various seminars and in-service training sessions and the courses:

- (1) Physics of Radiology for Residents in Radiology,
- (2) Medical Nuclear Physics II,
- (3) Physics of Radiology Technologists, and
- (4) Radiology Elective of 3rd and 4th year Medical Student Years. Application

is a resubmission which was received by U.S. Department of Commerce on March 10, 1983.

Docket No. 83-108. Applicant: Montana State University, Department of Chemistry, Bozeman, MT 59717. Instrument: Mass Spectrometer System, MM 16F and Accessories. Manufacturer: VG Instruments, United Kingdom. Intended Use of Instrument: The instrument is intended to be used for a wide range of research projects including but not limited to the following:

- (1) Development of improved methods for trace organic analysis.
- (2) Isolation and structure elucidation of natural products of biological significance.
- (3) Research efforts in natural products and organometallic chemistry.
- (4) Investigation of the chemical structure and biosynthesis of the unique lipids that are found on insects with the purpose of providing basic research for the development of specific insecticides.
- (5) Further studies of the interactions of parasites with their plant hosts.
- (6) Analysis of involatile organic and polymeric materials by fast-atom bombardment (FAB) source.
- (7) Structurally characterizing glycoproteins (hemagglutinins) from plant, insect and human systems.
- (8) Identification of individual mutagenic/carcinogenic components in complex mixtures as diverse as air particulates collected by vacuum filtration or body fluids of animals and humans.

- (9) Determine the physiological effects of environmental toxicants.
- (10) Modeling the degradation of pesticides under anaerobic conditions.
- (11) Identification of low molecular weight substances with biological activity.

In addition, the instrument will be used for educational purposes in the courses:

- Chem 418. Qualitative Analysis of Organic Compounds.
- Chem 428. Instrumental Analysis.
- Chem 526. Advanced Mass Spectroscopy.
- Chem 580. Degree Research.

Application Received by Commissioner of Customs: February 23, 1983.

Docket No. 83-131. Applicant: New York University Medical Center, 550 First Avenue, New York, NY 10016. Instrument: BB P2000 Freeze Etching Plant BAF 400D and Accessories. Manufacturer: Balzers Union, Liechtenstein. Intended Use of Instrument: The instrument is intended to be used for studies of specimens of central and peripheral nervous tissue

from experimental animals. The experiments to be conducted will consist of the application of demyelinating agents to the experimental animal tissue in order to bring about destruction of myelin sheaths which would be followed by remyelination subsequently. Application Received by Commissioner of Customs: February 23, 1983.

Docket No. 83-140. Applicant: University of Alabama in Birmingham, Department of Biochemistry, University Station, Birmingham, AL 35294. Instrument: Electron Microscope, EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended Use of Instrument: The instrument is intended to be used for analysis of the structure and the arrangement of adenoviral genetic material, both within the virus and in recombinant DNA clones. Experiments to be conducted will involve a wide range of research interests in the Department of Biochemistry. Application Received by Commissioner of Customs: February 23, 1983.

Docket No. 83-142. Applicant: University of Idaho, Moscow, ID 83843. Instrument: VG 7070 GC/Mass Spectrometer with Demonstrator Model 11/250 Data System. Manufacturer: VG Instruments Group, United Kingdom. Intended Use of Instrument: The instrument is intended to be used in a number of ways for the analysis of structure and composition of a large variety of organic and inorganic chemical substances. The varied applications include but are not limited to:

- (1) Developing chemical reactions which mimic the aromatic dioxygenases which oxidatively dearomatize aromatic rings via incorporation of both atoms of dioxygen into the substrate yielding some type of nonaromatic carboxylic acid.

- (2) Studies on intermediate metabolism of aromatic compounds by bacteria with particular application to lignin and lignin-type systems.

- (3) The efficient and accurate determination of trace components in multicomponent air samples.

- (4) Identification of intermediates and products in the development of improved methods for asymmetric syntheses.

- (5) Structural elucidation of enol silyl ethers and their reaction products—EI/CI—GC/MS—library—exact mass.

- (6) Development of methodologies for simultaneous determination of several water-soluble vitamins in fortified and non-fortified food and other biological systems.

(7) Research involving the synthesis of chemically-modified silicas and simpler model systems via some novel methods.

(8) Studies involving photolytic degradation of polyaromatic hydrocarbons and amines.

The instrument will also be used to provide mass spectrometer training for undergraduate and graduate students in the following courses:

- Chem. 491, 500 and 600—Research.
- Chem. 556—Chemical Spectroscopy.
- Chem. 454—Instrumental Analyses.
- Chem. 376—Organic II Lab.
- Chem. 308—Physical Chemistry Lab.

Applications Received by Commissioner of Customs: March 3, 1983.

Docket No. 83-143. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Instrument: Mass Spectrometer, Model ISOMASS 354 and Accessories. Manufacturer: VG Instruments, United Kingdom. Intended Use of Instrument: The instrument is intended to be used for studies of plutonium and uranium and other elements for which there exists two or more isotopes of sufficient stability for isotopic mass ratio measurements to be meaningful. The specific objective pursued in the application of the instrument is the determination of isotopic abundance. The knowledge of isotopic abundance will contribute to an extremely wide range of more general objectives as determined by programmatic goals. Application Received by Commissioner of Customs: March 3, 1983.

Docket No. 83-116. Applicant: The Armand Hammer Foundation, 10889 Wilshire Blvd., Los Angeles, CA 90024. Instrument: AGA Infrared Equipment. Manufacturer: AGA Infrared Systems AB, Sweden. Intended Use of Instrument: The instrument is intended to be used for non-destructive examination of the Palazzo Vecchio wall to find if and where the lost art masterpiece "Battle of Anghiari" was buried thereunder—since uncovering of same could result in research, educational, and anthropological benefits hopefully equivalent in value to those derived from the aforementioned other art masterpiece. Application Received by Commissioner of Customs: March 10, 1983.

Docket No. 83-129. Applicant: University of Wisconsin, Department of Ophthalmology, Room 569, Waisman Center, 1500 Highland Ave., Madison, WI 53706. Instrument: CRT Display Unit. Manufacturer: Joyce Electronics, United Kingdom. Intended Use of Instrument: The instrument is to be used for investigations of the spatio-temporal

response characteristics of the human visual system and the effects of a number of stimulus parameters on these response characteristics. There is also interest in how these characteristics may differ between normal individuals and individuals with clinically impaired vision (e.g., individuals with optic neuritis, multiple sclerosis, amblyopia, etc.). Application Received by Commissioner of Customs: March 10, 1983.

Docket No. 83-130. Applicant: Colorado State University, Department of Chemistry, Ft. Collins, CO 80523. Instrument: Klystron Tube, VKQ 2424N. Manufacturer: Varian Canada Inc., Canada. Intended Use of Instrument: The instrument is intended to be used to generate 40 GHz microwave frequencies which are necessary to perform dynamic nuclear polarization experiments on materials containing free radicals. The experiments will be carried out on coal and coal related materials in the laboratory where the rest of the extensive instrumentation necessary for these types of experiments already exists. In addition, the instrument will provide new opportunities for graduate student training. Application Received by Commissioner of Customs: March 10, 1983.

Docket No. 83-145. Applicant: University of Wisconsin-Madison, Department of Physics, 1150 University Avenue, Madison, WI 53706. Instrument: High Power Pulsed Gas Halide Excimer Laser, Model TE-861M-3. Manufacturer: Lumonics, Inc., Canada. Intended Use of Instrument: The instrument is intended to be used for the investigation of the magnitude and temporal characteristics of transient optogalvanic effects in a variety of discharges. These characteristics will be measured as a function of discharge parameters such as pressure, sustaining direct current, and geometry. In addition, the instrument will be used to perform a variety of diagnostics on the discharge including the measurement of excited atom densities. The objective of the investigation is to develop a quantitative understanding of optogalvanic effects in high current density discharges. Application Received by Commissioner of Customs: March 10, 1983.

Docket No. 83-147. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Faraday Rotator Glass Blanks, Type FR-5. Manufacturer: Hoya Corporation, Japan. Intended Use of Instrument: The instrument is intended to be used for investigation of the feasibility of producing a thermonuclear microexplosion using a uniquely high

intensity laser pulse. Application Received by Commissioner of Customs: March 7, 1983.

Docket No. 83-149. Applicant: University of Illinois at Urbana-Champaign, Purchasing Division, 223 Administration Bldg., Urbana, IL 61801. Instrument: Superconducting Magnet System, 11.7 Tesla, 41mm RT Bore, Persistent. Manufacturer: Oxford Instruments, Ltd., United Kingdom. Intended Use of Instrument: The instrument is intended to be used for studies of structures of clays and other minerals, catalysts, proteins, cell membranes and metal oxides by nuclear magnetic resonance spectroscopy. The objective of these studies is to determine the structures of a variety of chemical compounds of interest in chemistry, geology and biochemistry, especially with respect to their use in energy conservation. Application Received by Commissioner of Customs: March 7, 1983.

Docket No. 83-151. Applicant: University of Florida, Health Center—Receiving Department, Box J145—JHMC, Gainesville, FL 32610. Instrument: Surface Balance with Monolift. Manufacturer: Mayer Feintechnik, West Germany. Intended Use of Instrument: The instrument is intended to be used to measure the surface properties of phospholipids and proteins, the interactions between these two biomaterials, as well as the effect of the composition of the aqueous subphase. The educational uses of the instrument will involve research and training of undergraduate, professional and graduate students as well as postdoctoral research scientists in the techniques of surface chemistry involving lipids and proteins. Application Received by Commissioner of Customs: March 8, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-8150 Filed 3-29-83; 8:48 am]

BILLING CODE 3510-25-M

Brigham Young University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1980 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517). A copy of the record pertaining

to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00327. Applicant: Brigham Young University, Department of Chemistry, 218 ESC, Provo, UT 84602. Instrument: EMG 101E Multi-Gas Laser System with Optics and Model FL 2002E Dye Laser. Manufacturer: Lambda Physik, West Germany. Intended use of instrument: See Notice on page 41410 in the Federal Register of September 20, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used was being manufactured in the United States at the time the U.S. Customs Service received the application on August 13, 1982.

Reasons: The foreign instrument is a system composed of an excimer laser integrated to a dye laser. At the time the application was received by the U.S. Customs Service there were domestic manufacturers of excimer lasers who could combine their respective products with a dye laser produced by another domestic manufacturer. An example is the combination by Tachisto Incorporated (excimer lasers) and Moletron Corporation (dye lasers). However, this would not constitute a "reasonable combination of instruments" within the preview of § 301.5(d)(1)(i) of the regulations unless (a) the domestic manufacturer offering to furnish the combination undertakes to functionally integrate the instruments as a simple operating unit and (b) establish through appropriate test procedures the overall performance specifications of the excimer and dye laser system. (See decisions on Gas Chromatograph/Mass Spectrometer Dockets Number 67-00108-33-11000, 33 FR 597, January 17, 1968; Docket No. 68-00516-01-11000, FR 11097, August 3, 1968 and Docket No. 69-00446-01-11000, 34 FR 13336 and 13337, August 16, 1969.) We note that at the time the application for the foreign instrument was received by the U.S. Customs Service there was no domestic combination available.

The foreign instrument provides an amplified spontaneous emission (ASE) of one percent. The National Bureau of Standards advises in its memorandum dated February 23, 1983 that (1) the ASE of the foreign instrument is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or

apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the U.S. Customs Service received the application.

The Department of Commerce knows of no other instrument or combination of instruments of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used which was being manufactured in the United States and was being offered as a functionally integrated single instrument at the time the U.S. Customs Service received the application.

[Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials]

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-8152 Filed 3-29-83; 8:45 am]

BILLING CODE: 3510-25-M

Colorado State University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00188. Applicant: Colorado State University, Solar House 2, Fort Collins, Colorado 80523. Instrument: Evacuated Tube Heat Pipe Solar Collector. Manufacturer: N. V. Philips, The Netherlands. Intended use of instrument: See Notice on page 27388 in the Federal Register of June 24, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument produces high temperature energy (120 degrees centigrade) at high efficiency (30 percent). The National Bureau of Standards advises in its memorandum dated February 10, 1983 that (1) the

capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

[Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials]

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-8154 Filed 3-29-83; 8:45 am]

BILLING CODE 3510-25-M

Dartmouth College; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00204. Applicant: Dartmouth College, Radiophysics Laboratory, Hanover, New Hampshire 03755. Instrument: Ionosonde, Model LPS-42. Manufacturer: KEL Aerospace Pty., Ltd., Australia. Intended use of instrument: See Notice on page 27389 in the Federal Register of June 24, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides on site, unattended operation for more than 48 hours. The National Bureau of Standards advises in its memorandum dated February 8, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and

(2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-8153 Filed 3-29-83; 9:45 am]

BILLING CODE 3510-25-M

Department of Energy; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517). A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00174R. Applicant: U.S. Department of Energy, Laramie Energy Technology Center, P.O. Box 3395, Laramie, WY 82071. Instrument: Model MMZABIF Ultra High Resolution Mass Spectrometer with Accessories. Application is a resubmission, notice of which was published in the Federal Register of May 20, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 82-00174 which was denied without prejudice to resubmission on October 18, 1982 for informational deficiencies. The foreign instrument scans one mass decade in 30 seconds while maintaining a resolution of 40,000 (10% valley definition). The National Bureau of Standards advises in its memorandum dated February 17, 1983 that (1) the capability of the foreign instrument

described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.015, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-8153 Filed 3-29-83; 9:45 am]

BILLING CODE 3510-25-M

Trustees of the University of Pennsylvania; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81-00318. Applicant: Trustees of the University of Pennsylvania, Purchasing, 3541 Walnut Street, Philadelphia, PA 19104. Instrument: Mass Spectrometer, Model MM 7070-H with Accessories. Manufacturer: VG Organic Limited, United Kingdom. Intended use of instrument: See Notice on page 42896 in the Federal Register of August 25, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument is intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(4)(i) of the regulations, at the time the foreign instrument was ordered July 1, 1980.

Reasons: This application is a resubmission of Docket Number 80-

00378 which was denied without prejudice to resubmission on April 10, 1981 for informational deficiencies. The applicant sent a letter dated May 21, 1980 to Vacuum Generators (VG) and Nuclide Corporation (Nuclide) seeking specifications on their respective products. Nuclide did not respond to this letter. VG (the foreign manufacturer) responded on June 17, 1980. The foreign instrument entered the United States Customs Territory on June 9, 1980.

Mass spectrometers fall in the category of instruments that are produced on order. As to the domestic availability of such instruments the regulations provide:

" * * * In determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case. * * * Whether or not the domestic manufacturer has field tested or demonstrated the instrument will not, in itself, enter into the decision regarding the manufacturer's ability to manufacture an instrument. Similarly, in determining whether a domestic manufacturer is willing to produce an instrument, the Director may take into account the nature of the bid process, the manufacturer's policy toward manufacture of the product(s) in question, the minimum size of the manufacturer's production runs whether the manufacturer has bid similar instruments in the past etc. Also if a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument.

The regulations require the domestic manufacturers be both "able and willing" to produce an instrument for the purpose of comparison with the foreign instrument. Where an applicant, as in this case, extends in good faith a letter to a domestic manufacturer and receives no reply, it is apparent that the domestic manufacturer is either not willing or not able to produce an instrument of equivalent scientific value to the foreign instrument. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacture a domestic instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument is intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-8151 Filed 3-29-83; 8:45 am]

BILLING CODE 3510-25-M

**South Dakota State University;
Decision on Application for Duty-Free
Entry of Scientific Instrument**

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00331. Applicant: South Dakota State University, Brookings, South Dakota 57007. Instrument: Mobile Solar Test Facility, MSTF-2. Manufacturer: Solarfin Products, Canada. Intended use of instrument: See Notice on page 41410 in the *Federal Register* of September 20, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can be used to study a wide range of possible solar heating system designs, as well as individual parameters related to solar heating such as solar energy received per unit of area. The National Bureau of Standards advises in its memorandum dated December 14, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-8156 Filed 3-29-83; 8:45 am]

BILLING CODE 3510-25-M

**Microcircuit Subcommittee of the
Semiconductor Technical Advisory
Committee; Closed Meeting**

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Microcircuit Subcommittee was formed to study microcircuit and acoustic wave devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Time and Place: April 19, 1983, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 6059, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356. A copy of the Notice of Determination to closed meetings or portions thereof is available for public inspection and copying in the

Central Reference and Records Inspection Facility, Room 8628, U.S. Department of Commerce, Telephone: 202-377-4217.

Dated: March 24, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-8192 Filed 3-29-83; 8:45 am]

BILLING CODE: 3510-25-M

**Semiconductor Manufacturing
Materials and Equipment
Subcommittee of the Semiconductor
Technical Advisory Committee; Closed
Meeting**

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Semiconductor Manufacturing Materials and Equipment Subcommittee was formed to study the technical and strategic value of semiconductor device production equipment and materials for the purpose of maintaining a continuous review of the export control technical parameters, and to formulate recommendations to the Commerce Department for parameter updating as appropriate for reasons of national security.

Time and Place: April 19, 1983, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 5230, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive

Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217.

Dated: March 24, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-8191 Filed 3-29-83; 8:45 am]

BILLING CODE 3510-25-M

Semiconductor Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductors, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States established or in which it participates including proposed revisions of any such controls.

Time and Place: April 20, 1983 at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda: General Session:

- (1) Opening remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Proposal for technical data control licensing procedures.
- (4) Update of the COCOM schedule for the list review.

(5) Subcommittee reports:

- a. Discrete Semiconductor Device,
- b. Microcircuits, and
- c. Semiconductor Manufacturing Materials and Equipment.

(6) New business.

Executive Session:

(7) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

For Further Information or Copies of the Minutes Contact: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230; Telephone: 202-377-2583.

Dated: March 24, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-8193 Filed 3-29-83; 8:45 am]

BILLING CODE 3510-25-M

Exporters' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Exporters' Textile Advisory Committee, which is comprised of 30 members involved in textile and apparel exporting, advises Department of Commerce officials concerning ways of increasing U.S. exports of textile and apparel products.

Time and place: April 21, 1983 at 10:00 a.m. The meeting will take place at No. 6 World Trade Center, Room 718, New York, New York.

Agency: (1) Review of export data, (2) Report on conditions in the export market, (3) Recent foreign restrictions affecting textiles, (4) Other Business.

Public Participation: A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

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

Dated: March 25, 1983.

Walter C. Lenaham,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-8188 Filed 3-29-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program (NVLAP): Report of Laboratory Accreditation Action for February 1983

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of accreditation action.

SUMMARY: The National Bureau of Standards (NBS) announces that the Jim Walter Research Corporation, 10301 9th Street North, St. Petersburg, FL, which was previously accredited under the Thermal Insulation Materials Laboratory Accreditation Program has been accredited for an additional test method under that program. The additional test method for which accreditation has been granted is:

ASTM E84 Surface burning characteristics; building materials. No

other accreditation actions under NVLAP were taken by NBS during the month of February 1983.

FOR FURTHER INFORMATION CONTACT:

Mr. John W. Locke, Manager, Laboratory accreditation, TECH B141, National Bureau of Standards, Washington, DC 20234; (301) 921-3431.

Dated: March 24, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 83-8128 Filed 3-29-83; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Medical Research and Development Advisory Committee, Subcommittee on Medical Entomology; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Entomology.

Date of meeting: April 19 & 20 1983.

Time and place: 0830 hrs, Conference Room, US Army Medical Research Institute of Infectious Diseases, Fort Detrick, Frederick, MD.

Proposed agenda: This meeting will be open to the public from 0830 to 1015 hrs on April 19, for the administrative review and discussion of the scientific research program of the Medical Entomology Group, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S.C., Title 5 and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1030 to 1630 hrs on April 19, and from 0900 to 1200 hrs on April 20, for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576-

2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83-8163 Filed 3-29-83; 8:45 am]

BILLING CODE 3710-08-M

Army Medical Research and Development Advisory Committee, Subcommittee on Medicinal Chemistry; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medicinal Chemistry.

Date of Meeting: April 14 & 15 1983.

Time and Place: 0830 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: This meeting will be open to the public from 0830 to 0945 hrs on 14 April for the administrative review and discussion of the scientific research program of the Medicinal Chemistry Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1000 to 1700 hrs on April 14, and from 0900 to 1215 hrs on April 15, for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576-2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC Deputy Commander.

[FR Doc. 83-8162 Filed 3-29-83; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Application Notice for the Secretary's Discretionary Program Grants—Expanding Parental Choice in Education; Improving Teacher Quality Through Incentives; Strengthening Local School Boards; and Unsolicited Grant Applications

AGENCY: Department of Education.

ACTION: Notice.

SUPPLEMENTARY INFORMATION. The Secretary of Education (the Secretary) invites grant applications for new awards in Fiscal Year 1983 under the Secretary's Discretionary Program.

This notice addresses applications that explore options for expanding parental choice in education, improving teacher quality through incentives, or strengthening local school boards, as well as unsolicited grant applications within the purview of the Secretary's Discretionary Program. Separate notices will be issued to address specific programs or initiatives to be funded under the Secretary's Discretionary Program, for example, law-related education and the National Diffusion Network.

Authority for this program is contained in section 583 of the Education Consolidation and Improvement Act of 1981 (ECIA) (20 U.S.C. 3851).

Closing Date

An application for a grant must be mailed or hand-delivered by August 1, 1983. However, applications will not be saved for a single review after the closing date, but rather the Secretary will select applications for funding from time to time as they are submitted during the fiscal year. An application will compete against other applications within the appropriate competition that have been received by the time of the review. Therefore, an applicant that wait until the closing date to file an application may have a diminished chance for an award. However, no applications will be reviewed until 60 days after the publication of this Notice.

Program Information

Purpose and Scope of the Secretary's Discretionary Program

Section 583 of the ECIA was enacted as part of Chapter 2, Subtitle D of Title V of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The ECIA has two principal purposes. The purpose of Chapter 1 is to provide financial assistance to State and local educational agencies to meet the special

educational needs of educationally deprived children. The purpose of Chapter 2 is to consolidate 28 elementary and secondary level education grant programs funded in Fiscal Year 1981 into a single authorization of grants to States for the same purposes set forth in the programs consolidated.

Section 583(a), which authorizes the Secretary's Discretionary Program, authorizes the Secretary to carry out directly, or through grants or contracts, programs and projects which:

(1) Provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children and others served by the ECIA, and for assessing the needs of such individuals;

(2) Carry out research and demonstrations related to the purposes of the ECIA;

(3) Are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of the ECIA; or

(4) Are designed to assist State and local educational agencies in the implementation of programs under the ECIA.

The Secretary has determined that certain unmet national needs exist within the scope of the discretionary program. Therefore, in order to address these needs and to stimulate national interest in them, the Secretary is inviting applications for certain specific purposes within the scope of the discretionary program. Those purposes are expanding parental choice in education, improving teacher quality through incentives, and strengthening local school boards. In the event that discretionary program funds remain after applications have been funded for these specific purposes, the Secretary will consider any unsolicited grant applications that are within the scope of the discretionary program, as set forth in section 583(a) of the ECIA, and that otherwise meet the requirements of this Notice, including the closing date, and applicable law and regulations.

Particularly because of the limited available resources, the Secretary encourages applicants to propose projects that show a thorough knowledge of previous work in the area of the project and its relationship to the proposed project, and that use existing materials to the fullest extent possible. Also because of the limited available resources, the Secretary encourages applicants to propose projects that would use the funds awarded in the

competitions described in this Notice to supplement other sources of funding.

Eligible Applicants

State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions may apply for a grant. An applicant may apply singly or jointly with another eligible applicant, as provided in sections 75.127 through 75.129 of the Education Department General Administrative Regulations (EDGAR, 34 CFR 75.127-75.129).

Length of Awards

Applicants may apply for funding for a project that is 12 to 18 months in duration although, under special circumstances, awards for periods of up to two years will be considered. However, any applicant that wishes to submit an application for a project that exceeds one year in duration should plan the project so that significant activities are completed at the end of one year.

Types of Projects

The Secretary intends to reserve funds for specific types of projects. Separate competitions will be conducted for each of the following types of projects.

1. *Expanding parental choice in education.* Awards will be made, in separate competitions, for a study project and for demonstration projects that focus on concepts, policies, and practices designed to foster a greater degree of parental choice in and influence on elementary or secondary education. The introduction of market incentives, such as voucher systems, is but one example of efforts of this type. A voucher system would permit parents to use vouchers to pay for school tuition or other educational programs and services for their children at public or private elementary or secondary schools. In general, vouchers and other market incentives are intended to expand opportunities for parents to choose schools and educational programs that best meet the needs of their children. They are also intended to stimulate and encourage competition among school programs and to increase private sector involvement in elementary and secondary education.

A proposed study project must identify and analyze factors critical to fostering the availability and delivery of public education services that are responsive to community and parental interests. The project must explore means to promote choice, diversity, and competition in the provision of public

education services, with special attention to various forms of market incentives that might be adopted. In addition, the project must also examine impediments to choice in the provision of public education services, including existing Federal or State laws or regulations that would inhibit changes to implement parental choice. The project must also develop the means and the forums in which to generate public discussion of these issues. It is expected that a single one-year award for a study project will be made for \$75,000 to \$175,000.

Demonstration projects must incorporate promising approaches to utilizing market incentives, such as voucher systems, to accomplish the purposes outlined above. Proposed demonstration projects must include market incentives that have been developed for use in a local educational authority and that are currently operational or will be by the beginning of the 1984-1985 school year. Consistent with section 75.590 of EDGAR, evaluative data must be gathered and analyzed to describe and assess the effects of such a demonstration project. Funding for demonstration projects under these awards will be limited to the cost of administering and evaluating the project. It is expected that one to three awards for demonstration projects will be made for \$75,000 to \$175,000 each for the first year of funding.

2. *Improving teacher quality through incentives.* One to three awards will be made to plan and implement incentive structures designed to improve the quality of elementary and secondary level teaching by influencing teacher recruitment and teacher personnel systems and by making the teaching profession more attractive to a wider range of talented individuals. Of special interest are incentive structures that combine well-specified teacher performance standards and a teacher evaluation system, which may include peer judgment arrangements, with one or more of the following elements:

—Pay differentials,

—A career ladder structure that clearly specifies successive levels or teaching positions (positions or levels distinguished by increasing teacher responsibilities and opportunities while maintaining superior classroom performance, progressing to a master-teacher-like position),

—Nonsalary forms of recognition for superior teaching or contribution to the improvement of the overall instructional program.

Project activities must include a pilot demonstration of a clearly specified incentive structure for elementary and secondary teachers that would be suitable for implementation by States or local school boards. Project activities must also include staff development and in-service training designed to further the purposes of the incentive structure. Proposed projects must include planning and implementation activities associated with the teacher incentive structure that has been developed with the participation of appropriate interested local groups, and that has wide support from high-level school officials and commitment from the various interested local groups. In other words, the awards are intended to assist existing incentive structure plans to move forward to a greater extent than would be possible without these additional resources.

It is expected that one to three awards will be made for \$50,000 to \$150,000 each in the first year of funding. Funding for projects under these awards will be limited to the cost of planning and administering the project and to the cost of collecting and analyzing information to describe and assess the effects of the demonstration.

3. Strengthening local school boards. One award will be made to provide training and information sources to school board members and staff. Applications must propose training for local school board members and staff that is intended to equip them to deal with substantive policy decisions designed to enhance elementary and secondary school programs under the jurisdiction of the local school board. The proposed training must have nationwide impact, touching every State and territory. The methods will be selected by the applicant and must be indicated in the application. Consistent with § 75.590 of EDGAR, an assessment and evaluation of the activities utilized must be an integral part of the project, and a report to the Secretary on the project's effectiveness must be submitted. It is expected that \$100,000 to \$150,000 will be awarded for the first year of this grant. Funding of project costs under this award will not include stipends or travel costs for trainees.

The above estimates assume that applications of satisfactory quality will be received for each type of project. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations. Potential applicants should also be aware that the President has

proposed to Congress a rescission that may eliminate all or part of the funds available for the competitions described in this Notice. However, the deadline for these competitions will not be extended, and applicants should prepare and submit applications in accordance with this Notice, pending further notification.

Unsolicited Grant Applications

In the event that funds remain after awards have been made for the specific purposes of this or other notices applicable to the Secretary's Discretionary Program, the Secretary will consider for funding any unsolicited grant application that is eligible under section 583(a) of the ECIA. However, it is expected that only limited, if any, funds will remain.

Evaluation Criteria and Procedures

In evaluating applications, the Secretary will use the selection criteria set forth in section 75.210 of EDGAR. As set forth in section 75.210, the maximum score for all the criteria is 100 points. The minimum value for each criterion is as follows:

- (1) Meeting the purposes of the authorizing statute. (30 points)
- (2) Extent of need for the project. (20 points)
- (3) Plan of operation. (15 points)
- (4) Quality of key personnel. (7 points)
- (5) Budget and cost effectiveness. (5 points)
- (6) Evaluation plan. (5 points)
- (7) Adequacy of resources. (3 points)

Furthermore, § 75.210 permits the Secretary to distribute an additional 15 points among the criteria listed above. The Secretary has decided to distribute these additional points for each of the competitions described in this Notice as follows:

- (1) *Expanding parental choice in education (study project)*: 15 additional points will be added for the quality of key personnel (criterion 4), for a total of 22 points;
- (2) *Expanding parental choice in education (demonstration projects)*: 15 additional points will be added for the plan of operation (criterion 3), for a total of 30 points;
- (3) *Improving teacher quality through incentives*: 10 additional points will be added for the plan of operation (criterion 3), for a total of 25 points, and 5 additional points will be added for the budget and cost effectiveness (criterion 5), for a total of 10 points;
- (4) *Strengthening local school boards*: 10 additional points will be added for the plan of operation (criterion 3), for a total of 25 points, and 5 additional points will be added for the budget and

cost effectiveness (criterion 5), for a total of 10 points; and

(5) *Unsolicited grant applications*: 5 additional points will be added for the plan of operation (criterion 3), for a total of 20 points, and 10 additional points will be added for the quality of key personnel (criterion 4), for a total of 17 points.

The Secretary will use the procedures set forth in §§ 75.215 through 75.222 of EDGAR to select applications for funding.

Any applications for funding under the Secretary's Discretionary Program that are not in response to a particular notice and are received before the publication of this Notice will be reviewed as if they were in response to this Notice.

Private School Children Participation

To receive a grant under this Notice, a local educational agency must comply with the provisions of section 586 of the ECIA, governing equitable participation of private school children in the purposes and benefits of Chapter 2. Applicants are referred to the regulations implementing Chapter 2 of the ECIA (published at 47 FR 52368, November 19, 1982) as a guide to the extent and nature of the required consultation with private school officials and the required provision of benefits to private school children.

Application Information

No program information package will be prepared for the competitions described in this Notice. However, applications should be prepared in accordance with Part 75 of EDGAR and applicable forms. Application forms may be obtained by writing to Bruce Haslam, Secretary's Discretionary Program, U.S. Department of Education, 400 Maryland Avenue SW., Room 4181, Washington, D.C. 20202.

An applicant should submit an original and two copies of its proposal to the address listed in this Notice. The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length.

Instructions for Transmittal of Grant Applications

Applicants should note carefully the instructions for the transmittal of applications included below.

Transmittal of Grant Applications

Grant applications must be mailed or hand-delivered on or before August 1, 1983.

Grant Applications Delivered by Mail

Grant applications sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: Bruce Haslam, Secretary's Discretionary Program, Washington, D.C. 20202. Applications will be accepted only if they are mailed on or before the closing date and proof of mailing is provided.

A grant application must show proof of mailing, consisting of one of the following:

- (1) A legible dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If a grant application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

- (1) A private metered postmark, or
- (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

An applicant is encouraged to use registered or at least first class mail.

Each applicant whose grant application does not meet the closing date shown above will be notified that the late application will not be considered and that the application will be returned if the applicant prefers.

Grant Applications Delivered By Hand

A hand-delivered grant application must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. Hand-delivered grant applications will be accepted between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. A grant application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date shown above.

Applicable Regulations

Regulations applicable to this program are the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue,

SW., Room 4181, Washington, D.C. 20202. Telephone: (202) 426-6420.

(Catalog of Federal Domestic Assistance— not applicable)

Dated: March 24, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-8165 Filed 3-29-83; 8:45 am]

BILLING CODE 4000-01-M

Follow Through Program

AGENCY: Department of Education.

ACTION: Application notice for fiscal year 1983 (school year 1983-84).

Applications are invited for continuation awards in the following categories under the Follow Through program:

- (1) Grants for carrying out local Follow Through projects; and
- (2) Grants for expanded demonstration activity (Resource Centers).

Authority for these categories is contained in Sections 661-669 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, 95 Stat. 508-511. (42 U.S.C. 9861-9868).

The purpose of these awards is to provide comprehensive services to low-income children in grades K-3.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a continuation award should be mailed or hand-delivered to the U.S. Department of Education by May 2, 1983.

If an application for a continuation award is late, the Department of Education may lack sufficient time to review it with other continuation applications and may decline to accept it.

Applications Delivered By Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.014A (for Follow Through local projects) or 84.014D (for expanded demonstration activity), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly-dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the

Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or first class mail.

Applicants Delivered By Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information: In formulating applications for continuation of a local project grant, an applicant should give special attention to 34 CFR 215.15 of the Follow Through regulations which explains the criteria used in awarding these grants.

In formulating applications for continuation of an expanded demonstration activity award (Resource Center), an applicant should give special attention to 34 CFR 215.15a of the Follow Through regulations which provides an explanation of the procedures and criteria used in evaluating these applications.

Available Funds: There is approximately \$17,000,000 available for this program for fiscal year 1983. However, the President has proposed budget rescissions to the Congress that may eliminate funds for this program. The deadline in this notice will not be extended, and applicants should prepare and submit applications pending further notification.

In the event that the funds available preclude the continuation of all local project grants, the criteria for refunding, enumerated in the Follow Through regulations (34 CFR 215.15), will be used to determine the rank order of funding. In the event that the funds available preclude the continuation of all resource centers, the criteria in the Follow Through regulations for resource centers (34 CFR 215.15a) will be used to determine the rank order of funding.

Program Information: In formulating applications for continuation of a local project grant, an applicant should give special attention to 34 CFR 215.15 of the Follow Through regulations which

explains the criteria used in awarding these grants.

In formulating applications for continuation of an expanded demonstration activity award (Resource Center), an applicant should give special attention to 34 CFR 215.15a of the Follow Through regulations which provides an explanation of the procedures and criteria used in evaluating these applications.

Available Funds: There is authorized \$17,000,000 for this program for fiscal year 1983. However, the President has proposed budget rescissions to the Congress that may eliminate funds for this program. The deadline in this notice will not be extended, and applicants should prepare and submit applications pending further notification.

In the event that the funds available preclude the continuation of all local project grants, the criteria for refunding, enumerated in the Follow Through regulations (34 CFR 215.15), will be used to determine the rank order of funding. In the event that the funds available preclude the continuation of all resource centers, the criteria in the Follow Through regulations for resource centers (34 CFR 215.15a) will be used to determine the rank order of funding.

Application Forms: Applications forms and program information packages are ready for mailing.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Follow Through program, 34 CFR Part 215, published in the *Federal Register* on June 29, 1977 (42 FR 33146) and amended in the *Federal Register* on April 3, 1980 (45 FR 22537) and January 19, 1981 (46 FR 5375); and

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact Mr. Louis J. McGuinness, Director, Division of Follow Through, Compensatory Education Programs, U.S. Department of

Education, 400 Maryland Avenue, SW. (Room 3624, ROB-3), Washington, D.C. 20202. Telephone (202) 245-9846.

(42 U.S.C. 9861-9868)

(Catalog of Federal Domestic Assistance No. 84.014, Follow Through Program)

Dated: March 24, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-8164 Filed 3-29-83; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Secretary of Education invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATE: Interested persons are invited to submit comments on or before April 29, 1983.

ADDRESSES: Written comments or requests should be addressed to Andrew Uscher, Office of Management and Budget, 726 Jackson Place, NW., Room 3208 New Executive Office Building, Washington, D.C. 20503 and/or Margaret Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: William Wooten, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The requirement for public consultation may be amended or waived by OMB to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform the statutory obligations.

The Secretary of Education publishes this notice containing proposed information requests prior to the submission of these requests to the Office of Management and Budget. Public comment is invited and copies of the requests may be obtained from the addresses above.

Dated: March 22, 1983.

Charles L. Heatherly,

Deputy Under Secretary for Management.

Office of Elementary and Secondary Education (OESE)

Law-Related Education Grant Program Application

ED 740

Annual

State or local governments/businesses or other institutions

SIC: 941/822

Responses: 10 Burden Hours: 200

One form submitted for approval

Abstract: Application package for competitive grants of the Law-Related Education Discretionary Grant Program.

Law-Related Education Grant Program Performance and Financial Status Report

ED 740-1; -2

Annual

SIC: 941/822

State or local governments/businesses or other institutions

Responses: 10 Burden Hours: 300

Two forms submitted for approval

Abstract: Performance and Financial Status Report for competitive grants of Law-Related Education Discretionary Grant Program.

Extensions

Application for Chapter 1, ECIA 1981

Migrant Education Interstate/

Intrastate Coordination Program

ED 362-2

Annual

State or local governments

SIC: 941

Responses: 40 Burden Hours: 1,600

One form submitted for approval

Abstract: Grants are made to state educational agencies (that may apply individually or cooperatively) to plan and implement special projects designed to improve the interstate and intrastate coordination of migrant activities. Products of these grants will be distributed to all States serving migrant children, the District of Columbia and Puerto Rico.

Application for Women's Educational Equity Act Program

ED 436-1

Annual

Individuals or households/state or local governments/businesses or other institutions

SIC: 821/822/823/824/841/892/941

Responses: 600 Burden Hours: 12,000

One form submitted for approval

Abstract: The WEEA Program analyzes applications to ensure that Federal funds are distributed fairly and that projects are cost-effective.

Office of Special Education and Rehabilitative Services (OSERS)*New***Captioned Films for the Deaf—User Feedback Form**

To be assigned

On Occasion

Individuals or households/state or local governments/businesses or other institutions

SIC: 822/892

Responses: 5,000 Burden Hours: 250

One form submitted for approval

Abstract: The Education Department (through OSERS/SEP) provides a free loan service of captioned films for the deaf, for the purpose of making such films available for the educational, recreational, and cultural advancement of deaf persons. In order to evaluate the services provided through the loan program, a user feedback form (i.e., circulation characteristics) has been developed.

Office of Postsecondary Education (OPSE), Office of Student Financial Assistance (OSFA)**Request for Interest and Special****Allowance for Loans Made from Tax Exempt Funds**

ED 799-A

Quarterly

Businesses or other institutions

SIC: 822/602/603/604/605

Responses: 168 Burden Hours: 252

One form submitted for approval

Abstract: Form is used by lenders to request payment of interest and special allowance on Guaranteed Student Loans made from tax exempt funds.

*Revision***Pell Grant Program Progress Report (1983-84)**

ED 255-3

Triennial

Businesses or other institutions

SIC: 824/822

Responses: 15,000 Burden Hours: 11,250

One form submitted for approval

Abstract: Report is the vehicle through which necessary adjustments to the authorization of Pell funds are made, based on the actual demand for funds as reflected by the number of eligible Pell recipients. It is intended to monitor the allocation of Pell Grant funds for a given funding period and to report the payment of these funds by institutions to student recipients.

Office of Educational Research and Improvement (OERI)*New***The Use of ERIC Resources by Information Service Providers**

ED 241

Nonrecurring

Businesses or other institutions

SIC: 822/823/862

Responses: 1,400 Burden Hours: 1,000

One form submitted for approval

Abstract: This project is a study of the NIE funded Education Resource Information Centers (ERIC) Program and the use of ERIC and other information resources by information service providers. The study data will inform program managers and policy makers about ERIC and information dissemination by examining how information service providing organizations select, organize, and use information resources.

Exemplary Math Questionnaire

ED 913

Nonrecurring

Businesses or other institutions

SIC: 821

Responses: 500 Burden Hours: 500

One form submitted for approval

Abstract: This study seeks to investigate factors that contribute to the development of exemplary mathematics programs in public and private schools. Data will be used to formulate hypotheses about how such factors affect mathematics instruction.

National Assessment of Educational**Progress Spring Reading/Literature**

Field Tests, March-April, 1983

ED 2371-TA15,16,17;2371-

TB18,19,20;2371-TI10,11,12

Nonrecurring

Individuals

SIC: 821

Responses: 7,070 Burden Hours: 226

Nine forms submitted for approval

Abstract: Congress has mandated the collection of national assessment survey data. Achievement-related questions for the 1983-84 reading/literature and writing assessment will be field tested during March-April, 1983. The field test information will be used by National Assessment to guide item revision, review and selection for the full-scale assessment.

Survey of School Districts on Chapter 2**Block Grants Under ECIA**

ED 2379-17

Nonrecurring

Business or other institutions

SIC: 821

Responses: 700 Burden Hours: 350

One form submitted for approval

Abstract: Basic data on school district receipt and planned uses of block grant funds, and on the provision of services to private school children are urgently needed by the Department of Education for testimony to Congress regarding the first year of operation of the block grant program.

Survey of Private Elementary and Secondary Schools, 1983-84—Field Test

ED 2455

Biennially

Businesses or other institutions

SIC: 821

Responses: 90 Burden Hours: 90

Two forms submitted for approval

Abstract: Survey of Private Schools is designed to provide information needed by departmental policy makers in relation to such current issues as tax credits, voucher systems, and public funds to private school pupils.

*Revision***Application for Grants Under the National Diffusion Network Program**

ED 734

Annual

State or local governments/businesses or other institutions

SIC: 941/822/892

Responses: 179 Burden Hours: 2,628

One form submitted for approval

Abstract: The information requested in the grant application will be used solely for program management in the determination of grant eligibility and in the determination of the amount of the grant award.

Office of Bilingual Education and Minority Languages Affairs (OBEMLA)*New***Financial Status and Performance****Report under the Bilingual Vocational Training and Instructor Training Programs**

ED 791-1;-2

Annual

State or local governments/businesses or other institutions

SIC: 941/822/824

Responses: 20 Burden Hours: 40

One form submitted for approval

Abstract: Financial status and performance reports are required annually as a condition of funding. The reports are needed to monitor grantee expenditures and to determine whether and to what extent progress is being made toward achieving project goals and objectives.

Financial Status and Performance**Report Forms for the Bilingual Education Programs**

ED 890

Annual

State or local governments/businesses or other institutions

SIC: 941/822

Responses: 1,000 Burden Hours: 40

One form submitted for approval

Abstract: Financial status and performance reports are required annually as a condition of funding. The reports are needed to monitor grantee expenditures and to determine whether and to what extent progress is being made toward achieving project goals and objectives.

Reinstatement

Application for Grants under the Transition Program for Refugee Children

ED 443-2

Annual

State or local governments

SIC: 941

Responses: 57 Burden Hours: 2,850

One form submitted for approval

Abstract: State educational agencies use this form to apply for assistance for eligible children under the Refugee Act of 1980, as amended.

[FR Doc. 83-6091 Filed 3-29-83; 8:45 am]

BILLING CODE 4000-01-M

Office of Elementary and Secondary Education

School Construction in Areas Affected by Federal Activity Cutoff Date Notice for the Transmittal of Applications for Fiscal Year 1983

Applications are invited for new projects under the School Construction Program.

Authority for this program is contained in Pub. L. 81-815, school construction in areas affected by Federal activities. (20 U.S.C. 631-647)

Notice is given that the Secretary of Education has established a cutoff date for the transmittal of applications for increase periods ending June 1983 or June 1984 for assistance under Sections 5 and 9 of Pub. L. 81-815. (An increase period is a period of four consecutive regular school years during which a school district has experienced a substantial increase in school membership as a result of new or increased Federal activities.) This cutoff date also applies to applications for new projects under Section 14 of Pub. L. 81-815 and to new applications for supplemental assistance under Section 8 of Pub. L. 81-815. (Section 14 authorizes assistance for certain school districts which serve children residing on Indian lands, or which are significantly burdened by the presence of nontaxable Federal property. Section 8 authorizes assistance that supplements certain awards made under Sections 5, 9, and 14 of Pub. L. 81-815.)

Approval of these applications is subject to availability of funds.

Cutoff Date for Transmittal of Applications: Applications must be mailed or hand delivered to the U.S. Secretary of Education from the State educational agencies on or before June 30, 1983.

Applications Delivered by Mail: Applications sent by mail must be addressed to the Secretary of Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 2107A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legible U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new project will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, 400 Maryland Avenue SW., Room 2107A, Washington, D.C.

Hand-delivered applications will be accepted between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays. Hand-delivered applications will not be accepted after 4:30 p.m. on the cutoff date.

Program Information: Federal funds are provided for the construction or temporary provision of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. Funds are also provided for construction of needed minimum school facilities in school districts which serve children residing on Indian lands, or which are significantly burdened by the presence of nontaxable Federal property.

Application Forms: Application forms and instructions may be obtained from the appropriate State educational agency which serves the applicant local educational agency.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

Applicable Regulations: The regulations applicable to this program are:

- (a) Regulations governing the School Construction Program (34 CFR Part 221) published in the *Federal Register* on April 8, 1975.

Note.—Proposed regulations governing the School Construction Program (34 CFR Part 221) were published in the *Federal Register* June 29, 1979. When these regulations are published in final, they will supercede all other regulations.

- (b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77.)

(20 U.S.C. 633)

Dated: March 22, 1983.

(Catalog of Federal Domestic Assistance No. 84.040, School Assistance in Federally Affected Areas—Construction)

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-6092 Filed 3-29-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Revision of Form EIA-7A; Request for Comments

AGENCY: Energy Information Administration, DOE.

ACTION: Request for comments on the revision of Form EIA-7A.

SUMMARY: The Energy Information Administration (EIA) of the U.S. Department of Energy (DOE) plans to revise the annual "Coal Production Report," (EIA-7A) and invites comments on the survey and the content of the form.

DATES: Written comments must be submitted within 30 days of the publication of this notice.

ADDRESS: Send comments to Ms. Harriet M. Tarver at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT:

To obtain additional information or copies of the Form EIA-7A, contact Ms. Harriet M. Tarver, Coal Division, MS: #2F-021, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9723.

SUPPLEMENTARY INFORMATION:

I. Background.

II. Additions and Changes to the October 1980 Version of the Form EIA-7A, "Coal Production Report"

III. Request for Comments.

I. Background

The EIA announces plans to revise the Form EIA-7A, which is required of all mines producing 10,000 short tons or more of coal annually during the year, and to add a supplement which will obtain needed information about coal preparation, processing and shipments from mining operations which produce or prepare 100,000 short tons or more of coal during the report year.

The form is designed to provide the EIA with information on coal production, preparation and shipments, which will be aggregated and used in statistical reports, coal-related analyses and energy policy development. It is expected that the added respondent burden on the Form EIA-7A (Supplement) will be 2 hours per respondent while the burden on the EIA-7A will remain at 1 hour per respondent.

II. Additions and Changes to the October 1980 Version of the Form EIA-7A, "Coal Production Report"

Significant proposed changes are as follows:

Form EIA-7A. In addition to the data currently required, each mine will be requested to include a copy of a recent coal sample analysis report for the coal production included in the Form EIA-7A report.

Form EIA-7A (Supplement). The supplement to the EIA-7A report will be submitted by mining companies that produced or prepared 100,000 or more short tons of coal during the report year. The Form EIA-7A (Supplement) will ask for data on:

- Methods of transporting coal to the consumer.
- Quality and average price of coal shipments by consumer category.
- General mining information which includes pitch of coal seams mined, expected capacity in future, and mine operating constraints.
- Underground mining loading methods.
- Surface mining methods and overburden.
- Coal preparation method of preparation, type of equipment, and conveyance and treatment of refuse.

III. Request for Comments

Form EIA-7A and the proposed supplement are reproduced following this notice. The EIA invites prospective respondents to comment on the planned revisions within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential data provider)

- Are the instructions and definitions clear and sufficient?

b. Can data be submitted using the definitions included in the instructions?

c. Can the data be submitted in accordance with the response time specified in the instructions?

d. How many hours, including time for preparation and administrative review, will your company require to complete and submit the form?

e. What is the estimated cost of completing the form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as development, assembly, equipment, ADP and other administrative costs directly attributable to providing this information.

f. Do you know of other Federal, State or local agencies that collect similar data. (If yes, please identify.)

g. How can the form be improved?

(As a potential user)

a. Do you need data at the levels of detail indicated on the form?

b. For what purposes would you use these data? (Be specific.)

c. How could the form be improved to better meet your specific data needs?

d. Are there alternative sources of data and do you use them? What are their deficiencies?

The EIA is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. March 24, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

Energy Information Administration
Coal Production Report

U.S. Department of Energy

This report is being collected under mandatory authorities vested in the U.S. Department of Energy under Public Law 93-275. Failure to file may result in criminal fines, civil penalties or other sanctions as provided by law.

For provisions concerning the confidentiality of information submitted on this form see Part H of the instructions.

Form Approved
OMB No. 0000-0000

PLEASE RETURN THE COMPLETED FORM TO EIA IN THE BUSINESS
REPLY ENVELOPE PROVIDED BY _____

100

(Please make any corrections to the mailing label in the spaces provided to the right.)

GENERAL REPORTING INSTRUCTIONS: Form EIA-7A must be submitted by all coal mining companies that owned a mining operation that produced, processed, or prepared coal during the reporting year. A separate form EIA-7A must be submitted for each mining operation, i.e., mine and/or preparation plant, and/or tipple.

Mining operations that produced, processed or prepared 10,000 or more short tons of coal should report as follows: (i) For mines only or mines with preparation plants or tipples, complete all parts of the form, (ii) For preparation plants and tipples only, complete Parts I, II, C, 3, and III through VII of the form.

If this mining operation produced, processed or prepared under 10,000 short tons during the year, check this box ☐ , complete Sections I (Identification) and VI (Certification) and return this form in the enclosed envelope.

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Operating subsidiaries and contractors who are unable to provide the data requested should forward form EIA-7A to the parent company or contractee for completion prior to submission to the Energy Information Administration.

I. Identification

A. Enter the Name and Location of the Mining Operation
Mining Operation Name _____ Location (County) _____ State _____

B. Enter the Name and Address of the Company Operating this Mining Operation
Company Name _____

Address (Street) _____ (City) _____ (State) _____ (Zip) _____

C. Operating Company Point of Contact

Enter the name, title, telephone number, and address for the operating company representative who can answer questions regarding the information provided on this form.

Name _____ Title _____ Telephone No. (Area Code) _____

Address _____ (City) _____ (State) _____ (Zip) _____

D. Type of Company Operating this Mining Operation (Check one.) (See instructions for definitions of the company types.)

☐ Independent Producer/Operator ☐ Operating Subsidiary ☐ Contractor

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E. If you checked the box titled Operating Subsidiary or Contractor above, provide the following information about your Parent company or Contractee. (If there is more than one Parent company or contractee, provide additional names and addresses on a separate sheet of paper.)

Name of Parent Company/Contractee _____

Address (Street) _____ (City) _____ (State) _____ (Zip) _____

F. Parent Company/Contractee Point of Contact

Enter the name, title, telephone number and address for the Parent company or contractee representative who can answer questions regarding the information provided on this form. If there is more than one Parent company or contractee, provide additional names, titles, telephone numbers and addresses on a separate sheet of paper.

Name _____ Title _____ Telephone No. (Area Code) _____

Address (Street) _____ (City) _____ (State) _____ (Zip) _____

G. Kind of Mining Operation. (Check the boxes that apply.)

(1) Underground Mine (2) Surface Mine
☐ (a) Drift ☐ (a) Strip ☐ (3) Sit, Cull, Refuse Bank or Slurry Dam
☐ (b) Shaft ☐ (b) Auger ☐ (4) Preparation Plant
☐ (c) Slope ☐ (c) Strip/Auger Combination ☐ (5) Tipple

For EIA Use Only

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H. State Permit/License/Mine Number(s) (if applicable) of mining operation reported on this form. If there are additional numbers, use the remarks section or a separate sheet of paper to list them.

EIA-7A (Rev. February 1983)

2

I. Mine Safety and Health Administration Identification (MSHA ID) number(s) of this mining operation.	1.								
	2.								

J. Status Change

Did mining operation name and/or mine owner/operator change during year?

☐ (1) Yes ☐ (2) No If "yes," give date of change

and, as applicable, new name of mining operation and/or name and address of new owner/operator.

New Name of Mining Operation

Name of New Owner/Operator

Mo.	Day	Yr.

125

Address of New Owner/Operator

(Street) (City) (County) (State) (Zip)

K. Status at End of Year (check the box that applies)

☐ (1) Active, Producing ☐ (2) Active, Not Producing ☐ (3) Temporarily Abandoned ☐ (4) Permanently Abandoned

L. Production

A. Coal Bed(s) Mined Report the name, average thickness, percentage of production and coal classification for each coal bed mined during the reporting year at this mine. Exclude partings of thickness greater than one inch. For reporting of coal classification refer to Table 1. Classification of Coals by Rank, which is included with your form and instructions. For each coal bed determine the correct coal group for the coal produced from that bed and enter the code number (2 digits) for that coal group from Table 1, in column 4 below. If the specific coal group is unknown enter the coal rank for that coal bed using the code number from Table 1. Note: coal production percentage by coal bed (Column 3) should add up to 100.

For EIA Use Only	(1) Name of Coal Bed	(2) Average Thickness (inches)	(3) Percentage of Production (Percent)	(4) Coal Classification Code

211

212

213

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B. Recoverable Reserves

Recoverable Reserves Quantity (Short tons)

1. Enter the coal tonnage representing that portion of the coal reserves remaining at this mine at the end of the reporting year that you estimate can be recovered (mined) in the future. Report to the level of accuracy known. Exclude coal left in situ after mining.

221

2. Enter the recovery percentage used in estimating recoverable coal reserves at this mine. Report recovery percentage to the nearest whole percent. Note: total coal reserves times recovery percentage should equal recoverable coal reserves (item B1) above.

Recovery percentage

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C. Production Quantity and Value by Disposition (Exclude coal produced in prior years but shipped this year.)

The company owning the coal produced at this mining operation should report, by disposition (as of the end of the reporting year), the quantity and value of all coal produced at this mining operation during the reporting year. The quantity and value figures reported here must reflect the condition of the coal (i.e., raw, crushed, screened, or mechanically cleaned) as of its disposition. Report open market disposition on a first sale basis, i.e., as of its first sale or first change in ownership. Report captive market disposition based on use, i.e., as consumed at this mining operation, sold or transferred to and for use by the parent company or any subsidiaries of the parent company, or stockpiled. Calculate open market values using actual sales prices. Calculate captive market values and stock value using the actual accounting values recorded by your company for this coal. Exclude purchased coal.

Disposition of coal produced during the year.	Quantity (short tons) (1)	Value—f.o.b. mining operation (dollars) (2)
Open Market Sales		
1. Total coal produced at this mining operation during the year which was sold to other mining companies and coal dealers/brokers (wholesale and retail)		
2. Total coal produced at this mining operation during the year which was sold to all consumers other than coal mining companies and coal dealers. Include sales to employees		
Captive Market Uses/Sales		
3. Total coal produced during the year which was used/consumed in this mining operation		
4. Total coal produced at this mining operation during the year which was sold or transferred to and for use by the parent company or any other subsidiaries of the parent company		
Stocks		
5. Total coal produced at this mining operation during the year which was remaining in stocks at the end of the year		
Total Production		
6. Total production at this mining operation during the year (Sum of 1-5)		

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D. Coal Quality

PLEASE PROVIDE a copy of a recent coal sample analysis representing the condition of the coal reported in Section B.C. above. If the condition of the coal sold/used varied, i.e., raw run of mine or mechanically cleaned, provide a separate sample analysis report for each

A. Instructions for completing Form EIA-7A, "Coal Production Report"

A. Purpose
Form EIA-7A is designed to provide the Energy Information Administration (EIA), U.S. Department of Energy, with information on coal production, productivity and stocks. The data collected will be used in the compilation of aggregated statistical reports, for coal related analyses and energy policy development. This form is a mandatory reporting requirement under the Federal Energy Administration (FEA) Act of 1974 (P.L. 93-275).

B. Who Must Submit
Form EIA-7A must be submitted by all coal mining companies that owned a mining operation that produced, processed or prepared coal in the U.S. during the reporting year. A separate Form EIA-7A must be submitted for each mining operation, i.e., mine and/or preparation plant and/or tipple. Retain the copy marked "File Copy" for your records.

C. Where to Submit
Form EIA-7A should be returned in the business reply envelope provided with the form to:

Energy Information Administration, E1-521
U.S. Department of Energy
Washington, D.C. 20585

Requests for further information, additional forms, or business reply envelopes should be directed to the address above or by telephone on (202) 252-6868.

D. When to Submit
Form EIA-7A must be submitted by March 1st of the year following the reporting year.

E. Sanctions
The timely submission of form EIA-7A by a company required to report is a mandatory requirement. Late filing, failure to file, or failure otherwise to make information available to EIA in accordance with these instructions, may result in criminal fines, civil penalties and other sanctions as provided by Section 13(c) of the FEA Act (P.L. 93-275).

F. Definitions

1. Auger mine—a surface mine in which the coal is removed from the coal bed by means of a large diameter drill. Usually operated only when the overburden becomes too thick for economical strip mining.
2. Captive coal—all coal produced and consumed by the independent producer/operator or operating subsidiary or produced for consumption by a parent company.
3. Coal bed—a bed or stratum of coal. Also called a coal seam.
4. Drift mine—a mine that opens horizontally into the coal bed or coal outcrop.
5. F.O.B. (Free On Board) mining operation value—the price of coal at the mining operation. Does not include insurance and freight or shipping costs.
6. Independent producer/operator—a company which operates a coal mining operation and has no operating subsidiaries or parent companies.
7. Mining Operation—one mine and/or preparation plant and/or tipple at a single physical location.
8. MSHA ID number—seven (7) digit code assigned to a mining operation by the Mine Safety and Health Administration (MSHA).
9. Open market coal—coal sold in the open market, i.e., coal sold to companies other than the reporting company's parent company or an operating subsidiary of the parent company.
10. Operating subsidiary—company which operates a coal mining operation and is owned by another company (i.e., the parent company).
11. Parent company—a company which solely or jointly owns a subsidiary which operates a coal mining operation and is not owned itself by another company.
12. Report year—the calendar year beginning at 12:00 a.m. January 1 and ending at 11:59 p.m. December 31.
13. Shaft mine—a mine that reaches the coal bed by means of a vertical opening.
14. Slope mine—a mine that reaches the coal bed by means of an inclined opening.
15. State permit/lease/mine number—code assigned to a mining operation by the state in which the operation is located.
16. Strip mine—an open cut mine in which the overburden is removed from a coal bed prior to removal of the coal.

G. General Instructions

Mining operations that produced, processed or prepared less than 10,000 short tons of coal during the year check the first box (Line Code 110) on the form and complete Parts I (Identification) and VI (Certification).

Mines only or mines with preparation plants or tipples that produced 10,000 or more short tons of coal during the year complete all parts of the form.

Preparation plants or tipples only that prepared or processed 10,000 or more short tons of coal during the year complete Parts I, K.C.3, and B through VII of the form.

Report coal quantities in short tons (2,000 pounds) to the nearest whole ton. Report value in dollars to the nearest dollar. Report coal bed thickness in inches; to the nearest whole inch. Report percentages to the nearest whole percent.

Operating subsidiaries and contractors who are unable to provide the data requested should forward Form EIA-7A to the parent company or contractor for completion prior to submission to the Energy Information Administration.

H. Provisions Regarding the Confidentiality of Information

The information which is requested on Form EIA-7A may be (i) information which is exempt from disclosure to the public under exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act (FOIA) 5 U.S.C. 552 (b) (4) or (b) (5) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

To do this, respondents must state briefly and specifically (on an element by element basis if possible) in a letter accompanying their submission of the form, why they consider the information concerned to be a trade secret or other proprietary information; whether such information is customarily treated as confidential by their company and the industry; and the type of competitive harm that would result to their company from disclosure of the information. In accordance with the provisions of 10 C.F.R. 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public, the DOE may assume that the respondent does not object to disclosure to the public of any information submitted on the Form EIA-7A. In accordance with cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, the General Accounting Office, and other Congressional agencies authorized by law to receive such information.

Energy Information Administration
Coal Production Report (Supplement)

U.S. Department of Energy

This report is being collected under mandatory authorities vested in the U.S. Department of Energy under Public Law 93-275. Failure to file may result in criminal fines, civil penalties or other sanctions as provided by law.

For provisions concerning the confidentiality of information submitted on this form see Part H of the instructions.

Form Approved
O.M.B. No. 0000-000

PLEASE RETURN THE COMPLETED FORM TO EIA IN THE BUSINESS
REPLY ENVELOPE PROVIDED BY _____

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010

(Please make any corrections to the mailing label in the spaces provided to the right.)

GENERAL REPORTING INSTRUCTIONS: Form EIA-7A (Supplement) must be submitted by all coal mining companies that owned a mining operation that produced or prepared 100,000 or more short tons of coal during the reporting year. A separate form EIA-7A (Supplement) must be submitted for each mining operation, i.e., mine and/or preparation plant, and/or tipple.

Operating subsidiaries and contractors who are unable to provide the data requested should forward form EIA-7A (Supplement) to the parent company or contractee for completion prior to submission to the Energy Information Administration.

I. Identification

A. Enter the Name and Location of the Mining Operation	Location (County)	State
Mine Name		

8. Enter the Name and Address of the Company Operating this Mining Operation
Company Name

Address (Street)	(City)	(State)	(Zip)
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C. Operating Company Point of Contact
Enter the name, title, telephone number, and address for the operating company representative who can answer questions regarding the information provided on this form.

Name	Time	Telephone No. (Area Code)
------	------	---------------------------

Address	(City)	(State)	(Zip)
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D. Kind of Mining Operation: (Check the boxes that apply.)

(1) Underground Mine (2) Surface Mine

☐ (a) Drift ☐ (a) Strip

☐ (b) Shaft ☐ (b) Auger

☐ (c) Slope ☐ (c) Strip/Auger Combination

☐ (3) Silt, Culm, Refuse Bank or Slurry Dam

☐ (4) Preparation Plant

☐ (5) Tipple

For EIA Use Only

020

E. State Permit/License/Mine Number(s) (if applicable) of mining operation reported on this form. If there are additional numbers, use the remarks section or a separate sheet of paper to list them.

II. Coal Transportation

A. Coal production by method of shipment from mine site to the consumer. Include all coal produced during the year. Exclude purchased coal and refuse.

Item (1)	Quantity (2) (short tons)
1. Coal shipped by rail (include coal hauled by truck to the rail loading site)	
2. Coal shipped by waterway (include coal hauled by truck to waterway)	
3. Coal shipped by truck from mine to final destination (exclude used by mine and employees)	
4. Coal transported to electric utility plants adjacent to or near the mine	
5. Coal transported by slurry pipeline	
6. All other coal produced (include coal produced and stockpiled, coal used at mine and coal sold to employees)	
7. Total production	

030

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036

B Rail and Water Shipments. Include all coal produced during the year. Exclude purchased coal and refuse. Report for all coal tonnage included in the codes 030 and 031 above.

[illegible]

040

041

042

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045

048

047

2

II. Quality and Average Price of Coal Shipments by Consumer Category

Item (1)	United States Consumer Categories ¹				Exports (Include Canada and Mexico (6))	Consumer category unknown to producer (7)	Total (8)
	Electric utilities (2)	Coke plants (3)	Other Industrial (4)	Residential and Commercial (5)			
1. Quantity shipped (Short tons)							050
2. Average sulfur contents, as shipped dry basis (Percent)							051
3. Average price per ton f.o.b. mine (dollars and cents)							052
4. Average ash contents, as shipped, dry basis (Percent)							053
5. Average BTU per pound, as shipped, dry basis							054

¹ See definition #6 in instructions for the consumer categories

IV. Mining Information (General—All Mines)

A. Capacity Forecast

For each year, estimate the annual productive capacity at this mining operation and identify, using the boxes provided as to whether the reduced/expanded capacity results from more/less production at this mine or from development of a new mine near this existing mine.

		Reason for capacity change (check one or more boxes)	
Year	Annual productive capacity (short tons) (1)	More/Less production from this mine	Development of a new mine near this mine
1983			
1985			
1990			
1995			

B. Mine Operating Constraints.

Rank your mine operating problems/constraints in order of importance. Enter "1" for the most important reason "2" for the second most important reason and so forth. Rank only those reasons that affected your operations.

- ☐ (a) Manpower shortage ☐ (b) Absenteeism ☐ (c) Railroad car shortages ☐ (d) Shortages of materials and supplies
☐ (e) Environmental regulations ☐ (f) Lack of coal and demand ☐ (g) Strike ☐ (h) Other (specify below)

080

V. Underground Mining Information

A. Coal loaded at face by different methods: Quantity (short tons)

By mobile loading machines		090
By continuous mining machines		091
By shortwall machines		092
By longwall machines		093
By scoops		094
Total underground production		095

VI. Surface Mining Information

(1) Total coal mined by stripping (Short tons)	(4) Max. thickness, overburden (feet)	100
(2) Total coal mined by auger (Short tons)	(5) Average thickness, overburden (feet)	
(3) Overburden excavated (Cubic yards)	(6) Total area mined (Acres)	110
	(7) Total area reclaimed (Acres)	

VII. Coal Preparation Information

To be completed by mines only. mines with preparation plants and preparation plants only. Complete only those sections that apply.
 A. If this operation includes a mine, report the name and county location of the preparation plant(s) cleaning your coal.

Name(s) of mine(s) _____ County Location _____

B. If this operation includes a preparation plant, report the name and state and county location of the mines whose coal you clean.

Name(s) of mine(s) _____ State and County Location _____

3

For EIA use only

[illegible]

C. Coal Preparation by Method

(1) Tonnage prepared by crushing or screening only _____ (Short tons)

200

(2) Tonnage loaded for shipment without processing _____ (Short tons)

210

(3) Mechanical cleaning (include coal from other mines and purchased coal)

Report below the coal tonnage cleaned by type of equipment and method. Estimate if necessary.

Type of equipment		Quantity (Short tons)		Refuse		
(1)	(2)	Raw coal cleaned	Cleaned product	Coarse $\geq 500\mu$	Fine $< 500\mu$	
		(3)	(4)	(5)	(6)	
Wet methods						220
Jigs						230
Concentrating tables						240
Water only cyclones						250
Others						
Dense medium processes						260
Magnetite						270
Sand						280
Other						290
Froth flotation						300
Pneumatic methods						310
Trunk						

Method of conveying refuse (Please check boxes that apply) ☐ Truck ☐ Pipeline ☐ Aerial tram ☐ Rail ☐ Other (Specify)

D. Thermal drying (exclude electrically heated vibrating screens)

Type of dryer (1)	Manufacturer (2)	Number of units (3)	Size of feed (4)	Quantity dried (short tons) (5)
Fluidized-bed				410
Multilouver				420
Screen				430
Suspension or flash				440
Other				450
Total				460

E. Fine Pulp Treatment

	Method	Quantity (short tons)
	Pressure filters	500
	Vacuum filters	510
	Slurry ponds	520
	Centrifuge	530
	Underground	540
	Other	550
	Total	560

F. Coal Preparation Plant Operating Information.

1. What is your principal operating problem?

VIII. Remarks

Use this part of the form for additional space, explanations where necessary, or to request the EIA report summarizing data from this survey, additional forms or business reply envelopes.

IX. Disclosure Statement

PLEASE READ SECTION H OF THE SPECIFIC INSTRUCTIONS BEFORE COMPLETING THESE QUESTIONS

A. Does the information supplied on this form contain trade secrets and/or privileged or confidential commercial financial information?

☐ Yes☐ No

600

B. Have you attached a written justification for exemption from the Freedom of Information Act (FOIA)?

☐ Yes☐ No

610

X. Certification

This part of the form is to be completed by the official of the reporting company empowered to certify the truth and accuracy of the information provided on this form. Print or type the name and title of the certifying official. The certifying official must sign and date the certification.

I certify that the information provided herein and appended hereto (if any) is true and accurate to the best of my knowledge.

Name	Title	Signature and Date

620

4

Instructions for completing Form EIA-7A (Supplement), "Coal Production Report"**A. Purpose**

Form EIA-7A (supplement) is designed to provide the Energy Information Administration (EIA), U.S. Department of Energy, with information on coal preparation mining, transportation, quality. The data collected will be used in the compilation of aggregated statistical reports, for coal related analyses and energy policy development. This form is a mandatory reporting requirement under the Federal Energy Administration (FEA) Act of 1974 (P.L. 93-275).

B. Who Must Submit

Form EIA-7A (supplement) must be submitted by all coal mining companies that owned a mining operation that produced or prepared 100,000 or more short tons of coal in the U.S. during the reporting year. A separate Form EIA-7A (supplement) must be submitted for each mining operation, i.e., mine and/or preparation plant. Retain the copy marked "File Copy" for your records.

C. Where to Submit

Form EIA-7A (Supplement) should be returned in the business reply envelope provided with the form to:

Energy Information Administration, EI-521
U.S. Department of Energy
Washington, D.C. 20585

Requests for further information, additional forms, or business reply envelopes should be directed to the address above or by telephone on (202) 252-6666.

D. When to Submit

Form EIA-7A (supplement) must be submitted by March 15th of the year following the reporting year.

E. Sanctions

The timely submission of form EIA-7A (supplement) by a company required to report is a mandatory requirement. Late filing, failure to file, or failure otherwise to make information available to EIA in accordance with these instructions, may result in criminal fines, civil penalties and other sanctions as provided by Section 132(i) of the FEA Act (P.L. 93-275).

F. Definitions

1. Area mined—The total area from which coal was mined during the reporting year.
2. Area reclaimed—The total area that has been reclaimed (and has been contoured and seeded) during the reporting year.
3. Auger mine—A surface mine in which the coal is removed from the coal bed by means of a large diameter drill.
4. Coal face—The mining face from which coal is extracted.
5. Concentrating table—A device consisting of a tilted deck, usually inclined in two directions to the horizontal, to which differential reciprocating motion in a substantially horizontal direction is imparted; the material to be separated is fed in a stream of water, the heavy particles collect between the riffles and are then conveyed in the direction of the reciprocating motion while the lighter particles are borne by the current of water over the riffles to be discharged laterally from the table.
6. Consumer Categories
 - Electric Utilities—All privately owned companies and all publicly owned agencies engaged in the production of electric power for public use. Publicly owned agencies include the following: Municipal electric utilities, Federal power projects, such as the Tennessee Valley Authority (TVA), and rural electrification cooperatives, power districts, and State power projects.
 - Coke Plants—All plants where coal is carbonized for the manufacture of coke in six or beehive ovens. Report only coal that is carbonized to produce coke. Shipments of coal to coke plants for use in space heating or electric power generation should be included with "Manufacturing (except Coke Plants)." Do not report coal used to produce form coke. Include coal used for form coke with "Manufacturing (except Coke Plants)." Do not report coal used to produce form coke.
 - Other Industrial—Those industrial users/plants, not including coke plants, that are engaged in the mechanical or chemical transformation of materials or substances into new (i.e., finished or semifinished) products (i.e., manufacturing and companies engaged in agriculture, mining (including coal mining), or construction industries; Residential/Commercial—Housing units, wholesale and retail businesses (except coal wholesale dealers), health institutions (hospitals), social and educational institutions (schools and universities), and Federal, State, and local governments (military installations, prisons, office buildings, etc.). Exclude shipments to Federal power projects, such as TVA, rural electrification cooperatives, power districts, and State power projects; these are to be included in consumer category 1 (Electric Utilities).
7. Continuous mining machine—A mining machine designed to remove coal from the face without the use of cutting machines, drills or explosives. Includes continuous boring machines.
8. Dense medium process—A process for the washing of coal, in which the desired separation is effected in a dense medium.
9. Drift mine—A mine that opens horizontally into the coal bed or coal outcrop.
10. Flotation (froth)—A process for cleaning fine coal in which the coal, with the aid of a reagent, becomes attached to air bubbles in a liquid medium and floats as a froth.
11. Fluidized bed dryer—A type of dryer which depends on a mass of particles being fluidized by passing a stream of hot air through it.
12. Jig—A device which separates coal from foreign matter by a means of their difference in specific gravity in a water medium.
13. Longwall machine—A power-driven machine used to cut coal on a relatively long face (20 yards or more).
14. Magnetite process—A dense medium process for the washing of coal in which magnetite is used with water to form the dense medium fluid.
15. Mobile loading machine—A self-propelling machine that lifts the coal off the bottom and places it in a mine car, conveyor, or other means of transportation.
16. Sand process—A dense medium process, such as the Chance Cone, for the washing of coal in which sand is used with water to form the dense medium fluid.
17. Scoop machine—A type of self-propelling machine that lifts coal off the bottom by means of a scoop (bucket) arrangement at the front end of the machine and places it in or on a means of transportation.
18. Screen dryer—A screen, heated by hot air or electricity, that is used primarily for drying the coal.
19. Shaft mine—A mine that reaches the coalbed by means of a vertical opening.
20. Shortwall machine—A power driven machine (usually a continuous typing mining machine) that is used to cut on a much shorter face (5 to 20 yards) than that on the longwall system.
21. Size of feed—The linear dimensions of the feed such as 1/4-inch by 0, 3/16-inch by 0, and 1/16-inch by 1/16-inch.
22. Slope mine—A mine that reaches the coalbed by means of an inclined opening.
23. Strip mine—An open-pit mine in which the overburden is removed from a coalbed prior to removal of the coal.
24. Sulfur content on a dry basis—The sulfur content expressed as a percent by weight of moisture-free coal. Usually part of a laboratory analysis.
25. Suspension or flash dryer—An appliance in which the moist coal is fed into a column of upward-flowing hot gases.
26. Thermal drying—The application of heat (usually hot-air currents) to wet coals for the removal of moisture.

G. General Instructions

Report coal quantities in short tons (2,000 pounds), to the nearest whole ton. Report prices in dollars and cents. Report percentages to the nearest tenth of a percent.

Operating subsidiaries and contractors who are unable to provide the data requested should forward Form EIA-7A (Supplement) to the parent company or contractor for completion prior to submission to the Energy Information Administration.

H. Provisions Regarding the Confidentiality of Information

The information which is requested on Form EIA-7A (Supplement) may be (i) information which is exempt from disclosure to the public under exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act (FOIA) 5 U.S.C. 552 (b) (4) or (i) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

To do this respondents must state briefly and specifically (on an element by element basis if possible), in a letter accompanying their submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by their company and the industry, and the type of competitive harm that would result to their company from disclosure of the information. In accordance with the provisions of 10 C.F.R. 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public, the DOE may assume that the respondent does not object to disclosure to the public of any information submitted on the Form EIA-7A. In accordance with cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, the General Accounting Office, and other Congressional agencies authorized by law to receive such information.

Federal Energy Regulatory Commission**[Docket No. ER80-508-000]****Boston Edison Co.; Notice of Compliance Report**

March 24, 1983.

Take notice that on March 8, 1983, Boston Edison Company submitted for filing a compliance report pursuant to the Commission's Opinion No. 156, issued December 23, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 8, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-6090 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5290-001]**City of Darrington; Notice of Surrender of Preliminary Permit**

March 25, 1983.

Take notice that the City of Darrington, Permittee for the proposed Pugh Creek Hydroelectric Project No. 5290, has requested that its preliminary permit be terminated. The permit was issued on April 23, 1982, and would have expired on September 30, 1983. The project would have been located on the Pugh Creek in Lake County, Montana.

The Permittee filed its request on November 29, 1982, and the surrender of the preliminary permit for Project No. 5290 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-6074 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Project Nos. 5810-000, 5811-000, 5812-000, 5813-000, 5814-000 and 5815-000]**City of Galion, Ohio; Surrender of Preliminary Permits**

March 25, 1983.

Take notice that the City of Galion, Ohio (The City) Permittee for the Philo Lock and Dam No. 9, Luke Chute Lock and Dam No. 5, Ellis Lock and Dam No. 11, McConnelville Lock and Dam No. 7,

Rokeby Lock and Dam No. 8, and the Beverly Lock and Dam No. 4 Project Nos. 5810, 5811, 5812, 5813, 5814 and 5815, respectively, located on the Muskingum River on Muskingum, Morgan and Washington Counties, Ohio have requested that their permits be terminated. The preliminary permits for Project Nos. 5811, 5812, 5814 and 5815 were issued on July 15, 1982, and would have expired February 1, 1984. The permit for Project No. 5810 was issued on July 30, 1982, and would have expired on February 1, 1984. The permit for Project No. 5813 was issued on August 5, 1982, and would have expired March 1, 1984.

The City states that changes in the local legislature and the subsequent denial of funds to conduct feasibility studies as the reasons for the surrender.

The City's request was dated October 4, 1982. The surrender of the aforementioned permits is accepted as of the date of issuance of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-6075 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3826-001]**Continental Hydro Corp.; Surrender of Preliminary Permit**

March 25, 1983.

Take notice that Continental Hydro Corporation, Permittee for the Little Wood River Project No. 3826, has requested that its preliminary permit for the subject project be terminated. The permit for Project No. 3826 was issued on March 9, 1982, and would have expired on August 31, 1983. The project would have been located on Little Wood River in Blaine County, Idaho.

Continental Hydro Corporation filed its request on October 28, 1982, and the surrender of the permit for Project No. 3826 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-6076 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER81-426-000]**El Paso Electric Co.; Notice of Refund Report**

March 24, 1983.

Take notice that on November 5, 1983, El Paso Electric Company submitted for filing a refund report pursuant to the Commission's letter order of September 20, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 8, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-6077 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-465-000]**Empire District Electric Co.; Notice of Refund Report**

March 24, 1983.

Take notice that on February 24, 1983, Empire District Electric Company submitted for filing a refund report pursuant to the Commission's letter order of February 2, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 8, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-6078 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL82-26-000]**Gulf Power Co.; Notice of Refund Report**

March 24, 1983.

Take notice that on March 7, 1983, Gulf Power Company submitted for filing a refund report pursuant to the Commission's order issued February 4, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, on or before April 8, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-0080 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-2040-000]

Glenn B. Thorsen; Application

March 24, 1983.

Take notice that on March 18, 1983 Glenn B. Thorsen filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, Northern States Power Company (Wisconsin)
Director, Lake Superior District Power Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 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. 83-0079 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-468-000]

Kansas City Power & Light Co.; Notice of Refund Report

March 24, 1983.

Take notice that on February 28, 1983, Kansas City Power & Light Company submitted for filing a refund report pursuant to the Commission's letter order of February 17, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 8, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-0081 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5253-001]

Modesto Irrigation District; Notice of Surrender of Preliminary Permit

March 25, 1983.

Take notice that Modesto Irrigation District, Permittee for the Big Creek Power Project No. 5253, has requested that its preliminary permit for the subject project be terminated. The permit for Project No. 5253 was issued on November 13, 1981, and would have expired on April 30, 1983. The project would have been located on Big Creek in Trinity County, California.

Modesto Irrigation District filed its request on November 1, 1982, and the surrender of the permit for Project No. 5253 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-0082 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-386-000]

The Montana Power Co.; Notice of Filing

March 24, 1983.

Take notice that on March 14, 1983, The Montana Power Company ("Montana") tendered for filing an Average System Cost Report for Montana prepared by Bonneville Power Administration ("BPA") which conditionally accepts a rate of 15.63 mills per kWh as the rate for the sale of energy by Montana to BPA, in accordance with the provisions of the Residential Purchase and Sale Agreement ("Agreement") between Montana and the Bonneville Power Administration.

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

Montana requests an effective date of August 27, 1983, and therefore request waiver of the Commission's notice requirements.

A copy of the filing was served upon BPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 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. 83-0084 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-382-000]

Montana Power Co.; Notice of Filing

March 24, 1983.

Take notice that on March 14, 1983, Montana Power Company (Montana) tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and Bonneville Power Administration (BPA).

Montana states that the Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

Montana requests an effective date of October 18, 1982, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon BPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 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. 83-6083 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-387-000]

Montaup Electric Co.; Notice of Filing

March 24, 1983.

Take notice that on March 17, 1983, Montana Electric Company (Montana) tendered for filing two amendments to a contract in effect between Montaup and Pascoag Fire District (Pascoag) of Burrillville, Rhode Island. The contract is on file with the Commission in Docket No. ER82-61-000.

Montana states that the amendments provide for Pascoag's purchase of 1200 kw of Montaup's entitlements in the Canal No. 2 generating unit for the period from November 1, 1985 to October 31, 1986 and for the cancellation of Pascoag's obligation to purchase entitlements in Montaup's Somerset No. 6 generating unit of 700 kw for 1982/1983, 900 kw for 1983/1984 and 1000 kw for 1984/1985.

Montaup requests an effective date of February 13, 1983, and therefore requests waiver of the Commission's notice requirements.

According to Montaup copies of the filing were served upon Pascoag and on the Rhode Island Division of Public Utilities and Carriers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 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. 83-6085 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-388-000]

Pacific Power & Light Co.; Notice of Filing

March 24, 1983.

Take notice that Pacific Power & Light Company (Pacific) on March 17, 1983, tendered for filing, in accordance with Section 35.13a(d)(5) of the Commission's Regulations, Pacific's Revised Appendix 1 for the state of Oregon. The Revised Appendix 1 calculates an average system cost for the state of Oregon applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective October 27, 1982, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Oregon Public Utility Commissioner and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 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. 83-6086 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-385-000]

Public Service Company of Indiana, Inc.; Notice of Filing

March 24, 1983.

Take notice that Public Service Company of Indiana, Inc. (PSI) on March 21, 1983, tendered for filing proposed changes in its FERC Electric Service Tariff No. 236. The purpose of the filing is to change the rate in recognition of the construction and ownership of certain facilities by the City of Logansport (City) that enable the City to take delivery at a higher voltage.

Copies of the filing were served upon the City and the Public Service Commission of the State of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 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. 83-6087 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-389-000]

Southern Indiana Gas and Electric Co.; Notice of Filing

March 24, 1983.

Take notice that on March 17, 1983, Southern Indiana Gas and Electric Company (SIG&E) tendered for filing Modification No. 4 to the Interconnection Agreement dated November 27, 1972 between SIG&E and City of Jasper, Indiana, dated January 10, 1983.

SIG&E states that Modification No. 4 updates the Interconnection Agreement referred to above, by increasing the Capacity Charge from \$3.65 per Kw per month of Scheduled and Unscheduled Demand in Service Schedule A to \$4.50 per Kw per month; increasing the Capacity Charge for Emergency Service and Maintenance Power from \$0.85 to \$1.05 per Kw per week and/or \$0.175 per Kw per day for each day of less than a calendar week in Service Schedules B and C.

SIG&E requests that Modification No. 4 be permitted to become effective as a Rate Schedule immediately upon acceptance by the Commission. SIG&E further requests that notice requirements for Section 205(d) be waived.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211,

385.214). All such motions or protests should be filed on or before April 11, 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. 83-0088 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-423-002]

Virginia Electric and Power Co.; Notice of Refund Report

March 24, 1983.

Take notice that on March 10, 1983, Virginia Electric and Power Company submitted for filing a refund report pursuant to the Commission's letter order of January 21, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 8, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-0089 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-400-000]

Arizona Public Service Co.; Filing

March 25, 1983.

Take notice that on March 21, 1983, Arizona Public Service Company (Arizona) tendered for filing the Four Corners Emission Abatement System Operating Agreement executed January 19, 1983, by all the participants to 4 Corners Plant Units 4 and 5, namely, Arizona Public Service Company, El Paso Electric Company, Public Service Company of New Mexico, Salt River Project Agricultural Improvement & Power District, Southern California Edison Company, and Tucson Electric Power Company.

Arizona requests an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon the parties and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 13, 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. 83-0106 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-392-000]

Arkansas Power & Light Co.; Filing

March 25, 1983.

Take notice that on March 18, 1983, Arkansas Power & Light Company (AP&L) tendered for filing proposed changes in one of the Company's rate schedules:

Arkansas Power & Light Company Rate Schedule FPC No. 45

AP&L states that Rate Schedule FPC No. 45 is a contract between the Company and Farmers Electric Cooperative Corporation (Cooperative). The change in FPC No. 45, which is the Fifth Amendment to the Contract dated June 10, 1964 between Company and Cooperative, is a revision to the expiration dates for the electric service to be provided by Company at each of the Cooperative's six (6) points of delivery to reflect a single termination date of April 1, 1984 for each and every point of delivery.

AP&L further states that because this Fifth Amendment does not change rates charged to Cooperative in Rate Schedule FPC No. 45, no billing data was filed. According to AP&L there will be no change in rates or provisions in the schedule other than those noted above. AP&L requests waiver of the Commission's regulations concerning this proposed filing.

A copy of the filing has been served upon Farmers Electric Cooperative Corporation.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 12, 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. 83-0107 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-231-000]

Columbia Gulf Transmission Co.; Application

March 25, 1983.

Take notice that on March 15, 1983, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP83-231-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Company, a Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on a contract demand basis 60,000 Mcf of natural gas per day and such further volumes as Applicant agrees to accept of Northern's gas produced from offshore Louisiana, pursuant to a gas transportation agreement dated May 14, 1982. It is stated that Applicant would transport Northern's gas through Applicant's West Lateral pipeline facilities from the outlet of its measurement facilities at the terminus of the Blue Water Project near Egan, Acadia Parish, Louisiana, to its compressor station near Rayne, Acadia Parish, Louisiana. It is further stated that Applicant would redeliver such gas to Northern by displacement to United Gas Pipe Line Company (United) at the terminus of United's jointly owned Sea Robin Pipe Line System located near Erath, Vermilion Parish, Louisiana.

For such transportation service, Applicant proposes to charge Northern a commodity rate of .49 cent per Mcf of

gas monthly and a contract demand charge of 15.0 cents per Mcf received for transportation at the terminus of Applicant's Blue Water Project.

Applicant asserts that the subject transportation service would enable Northern to receive into its system gas supplies which it has purchased offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-8166 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-226-000]

Columbia Gas Transmission Corp.; Application

March 25, 1983.

Take notice that on March 10, 1983, Columbia Gas Transmission Corporation (Applicant), 1700

MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83-226-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Libby Owens Ford Company (LOF), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is presently authorized to transport up to 2,256 Mcf of natural gas per day for LOF. Applicant states that it receives said gas from Panhandle Eastern Pipe Line Company at Maumee, Ohio, and transports and redelivers such gas to Columbia Gas of Ohio, Inc., at existing points of delivery near Toledo, Ohio, for the account of LOF for further transportation and ultimate redelivery to LOF.

It is stated that LOF has sold its reserves from which production was being transported and, therefore, terminated its transportation agreement with Applicant by letter dated March 2, 1983. Applicant states that LOF has advised that there is no possibility that it would desire further transportation service under the existing agreement. Applicant, therefore, requests approval to abandon the transportation of natural gas for LOF.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience

and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-8166 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-390-000]

Consolidated Edison Co. of New York, Inc.; Filing

March 25, 1983

Take notice that on March 17, 1983, Consolidated Edison Company (Con Edison) tendered for filing an amendment (the "Amendment") to its Rate Schedule FERC No. 55, an agreement to provide transmission service to Philadelphia Electric Company (Philadelphia). The Amendment adds Orange and Rockland Utilities, Inc., as a source of the interruptible power and energy transmitted under the Rate Schedule. The Amendment would not effect rates or other conditions of service.

Con Edison Requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Con Edison states that a copy of this filing has been served upon Philadelphia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.314). All such motions or protests should be filed on or before April 12, 1983. Protests will be considered by 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 a file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-8170 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-399-000]**Duke Power Co.; Filing**

March 25, 1983.

Take notice that Duke Power Company (Duke Power) tendered for filing on March 21, 1983, a supplement to the Company's Electric Power Contract with Broad River Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 143.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following additional delivery: Delivery Point No. 12 with a designated demand of 1,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of January 19, 1983.

According to Duke Power, copies of this filing were mailed to Broad River Electric Cooperative, Inc., and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 13, 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. 83-8171 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-401-000]**Duke Power Co.; Filing**

March 25, 1983.

Take notice that Duke Power Company (Duke Power) tendered for filing on March 21, 1983 a supplement to the Company's Electric Power Contract with Surry-Yadkin Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power

Company Rate Schedule FERC No. 140.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following changes in designated demand: Delivery Point No. 2 from 2,800 KW to 1,500 KW and Delivery Point No. 4 from 6,000 KW to 6,800 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of May 18, 1983.

According to Duke Power, copies of this filing were mailed to Surry-Yadkin Electric Membership Corporation and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 13, 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. 83-8172 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-398-000]**Kansas Power & Light Co.; Filing**

March 25, 1983.

Take notice that on March 21, 1983, Kansas Power and Light Company (KP&L) tendered for filing a newly executed renewal contract dated March 14, 1983 with the City of Waterville, Kansas for wholesale service to that community. KP&L states that this contract permits the City of Waterville to receive service under rate schedule WSM-81 which succeeds their current rate schedule MWH-83 designated FERC No. 128.

KP&L further states that the proposed changes would increase revenues from sales by \$63,126.95 based on the projected 12 month period ending April 30, 1984.

KP&L requests an effective date of May 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the contract have been mailed to the City of Waterville and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 13, 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. 83-8173 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-217-000]**National Fuel Gas Supply Corp.; Application**

March 25, 1983.

Take notice that on March 4, 1983, National Fuel Gas Supply Corporation (Applicant), 308 Seneca Street, Oil City, Pennsylvania 16301, filed in Docket No. CP83-217-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to certain non-affiliated storage customers of Penn-York Energy Corporation (Penn-York) for injection into storage and/or for use in such customers' system supply, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to sell up to 3,200,000 Mcf of natural gas to Elizabethtown Gas Company (Elizabethtown) and Essex County Gas Company (Essex), both customers of Penn-York, during the period April 1, 1983, through October 31, 1983. Applicant proposes to make the following sales:

Customers	Maximum total volume (Mcf)	Maximum daily volume (Mcf)
Elizabethtown	3,000,000	15,000
Essex	200,000	1,000
Total	3,200,000	16,000

Applicant states that maximum daily delivery quantities may be exceeded upon request by the customer. Applicant further states that it would make such sales on an interruptible basis under service agreements entered into pursuant to its Rate Schedule I-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-8174 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-50-003]

Natural Gas Pipeline Co. of America; Petition To Amend

March 25, 1983.

Take notice that on March 2, 1983, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-50-003 a petition to amend the order issued May 19, 1982, in Docket No. CP82-50-000 pursuant to Section 7(c) of the Natural Gas Act so as to waive the notification requirements of Part 154 of the Regulations as applied by Paragraph (B) of the order of May 19, 1982, as they relate to the addition of receipt points in the Anadarko Basin and permit an annual filing of receipt points required to facilitate transportation of gas on behalf of Southern Natural Gas Company, United Gas Pipe Line Company, Texas Gas Transmission Company and Tennessee Gas Pipeline Company, a Division of Tenneco Inc., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner requests authority to file an annual tariff revision to its tariff rate schedule listing all the current receipt points under Exhibit A of the gas transportation agreements with the Trans-Anadarko Shippers. The Petitioner proposes a filing date of March 1 of each year.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-8175 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-221-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

March 25, 1983.

Take notice that on March 8, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-221-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northern proposes to construct and operate one delivery point at Hazel, South Dakota, and enlarge two existing points to accommodate natural gas deliveries to certain of its utility customers under the authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it intends to construct and operate one new delivery point at Hazel, South Dakota, for delivery of gas to Northwestern Public Service Company (Northwestern) pursuant to a request by Northwestern to build a town border station to provide natural gas service to residential and essential agriculture customers in the town of Hazel, and to enhance the measurement capability of the existing Anoka, Minnesota, Town Border Station No. 1A, and the Blaine, Minnesota, Town Border Station No. 1A, small volume measuring stations, in order to provide the capability to measure accurately the wide range of gas flows and reduce maintenance costs. It is asserted that such town border stations are utilized to measure volumes sold to North Central Public Service Company.

Northern asserts that any additional volumes delivered through the proposed facilities are within the present entitlement of the respective utility. Northern estimates the cost of the proposed facilities is \$32,100. Such cost, it is asserted, would be financed in accordance with Section 1.3 of the General Terms and Conditions of Northern's FERC Gas Tariff, Third Revised Volume No. 1.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed

activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8176 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-391-000]

Pennsylvania-New Jersey-Maryland Interconnection (PJM); Filing

March 25, 1983.

Take notice that on March 18, 1983, the parties to the Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement tendered for filing proposed Schedule 4.01 Revision No. 6 to the original Agreement between them as heretofore amended and supplemented, which is filed with the Commission under the following Rate Schedule designations:

	Rate schedule (FERC No.)
Public Service Electric and Gas Company	23
Philadelphia Electric Company	21
Pennsylvania Power & Light Company	21
Baltimore Gas and Electric Company	9
Jersey Central Power & Light Company	7
Metropolitan Edison Company	7
Pennsylvania Electric Company	24
Polomac Electric Power Company	19
Atlantic City Electric Company	20
Delmarva Power & Light Company	50

The PJM parties state that proposed Schedule 4.0, sets forth the rate for capacity deficiency transactions under the PJM Agreement for the 12-month Planning Period beginning June 1, 1983.

The PJM parties further state that no new facilities will be installed nor will existing facilities be modified in connection with the proposed schedule. It is requested that the proposed schedule become effective on June 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 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. 83-8177 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST83-267-000]

Seagull Pipeline Corp.; Application of Approval of Rates

March 25, 1983.

Take notice that on February 24, 1983, Seagull Pipeline Corporation (Applicant), Interfirst Plaza, 1100 Louisiana, Houston, Texas 77002, filed in Docket No. ST83-267-000 an application pursuant to Part 284 of the Commission's Regulations for approval of its rates for the transportation of natural gas on behalf of McMoran Oil and Gas (McMoran), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to transport gas produced by McMoran to the purchaser, Florida Gas. The gas produced by McMoran would be transported through the same pipeline system as the gas transported in Docket Numbers ST81-164 and ST83-21. These dockets are currently pending before the Commission, it is explained.

Applicant proposes a transportation rate of 10.0 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-8178 Filed 3-29-83; 8:45am]

BILLING CODE 6717-01-M

[Docket No. G-5035-002, et al.]

Shell Oil Co., et al., Application for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

March 25, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 12, 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, 385.214). 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.

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-5035-002, D, Mar. 14, 1983	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Texas Gas Transmission Corporation, Chalkley Field, Cameron Parish, Louisiana.	(1)	
G-6342-005, D, Mar. 14, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	El Paso Natural Gas Company, Lockhart A-27 No. 11 (Binebry) Well, Monument Area, Lea County, New Mexico.	(1)	
G-9446-000, D, Mar. 14, 1983	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	United Gas Pipe Line Company, Weeks Island, Iberia Parish, Louisiana.	(2)	
G-10354-000, D, Mar. 10, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Tabasco Field, Hidalgo County, Texas.	(1)	
G-18399-000, D, Mar. 10, 1983	do	United Gas Pipeline Company, Jeanerette Field, St. Mary Parish, Louisiana.	(1)	
C160-14-000, D, Mar. 14, 1983	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Florida Gas Transmission Company, White Castle Field, Iberville Parish, Louisiana.	(1)	
C164-157-000, D, Mar. 14, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77251.	Kansas-Nebraska Natural Gas Company, Inc., Section 14, T23S, R40W, Bradshaw Field, Hamilton County, Kansas.	(1)	
C179-600-001, C, Mar. 14, 1983	The Northwestern Mutual Life Insurance Company, 720 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202.	Michigan Wisconsin Pipe Line Company, E/2 E/2 Block A-595 and SW/4 Block A-596, High Island Area, Offshore Texas.	(1)	14.65
C179-609-001, C, Mar. 8, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, West Cameron Blocks 533/509 Field, Offshore Louisiana.	(1)	14.73
C181-506-001, E, Mar. 16, 1983	Petro-Lewis Corporation (Operator) (Successor in interest to Conoco Inc.), P.O. Box 2250, Denver, Colorado 80201.	Transcontinental Gas Pipe Line Corporation, Mustang Island Area Block A-85 Field, Offshore Texas.	(1)	14.65
C183-166-000, F, Mar. 14, 1983	Getty Oil Company (Successor in interest to Tenneco Oil Company), P.O. Box 1404, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Vermilion Block 216, Offshore Louisiana.	(1)	15.025
C183-173-000, A, Mar. 16, 1983	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77251.	Florida Gas Transmission Company, Matagorda Island Area, Block 555, Offshore Texas.	(1)	14.73

¹ Shell Lease No. L-8870, dated November 2, 1951, beyond its primary term. Due to demand by lessor, Shell released certain deep rights under said lease. The geological interpretation indicates there are no prospects for further development on said lease. There are no zones with production potential underlying said lease; therefore, renewal of the lease is not warranted.

² The Lockhart A-27 No. 11 (Binebry) well was reclassified by the New Mexico Oil Conservation Division from a gas well to an oil well.

³ Due to lessor demand, Shell released those strata and formations underlying the leased lands and found below the depth of 17,000 feet. It is the intention of Shell Oil Company to retain all lease rights in those depths from the surface to 17,000 feet below the surface.

⁴ Deletion of acreage. ARCO no longer holds an interest in the properties involved in this application.

⁵ Due to lessor demand to release approximately 1,100 acres under Shell lease L-2542, Shell complied. The lease is past its primary term. The geological interpretation indicates there are no prospects for further development on said lease; therefore, renewal of the lease is not warranted.

⁶ The Eaton Well No. 2 does not have sufficient reserves to qualify for connection by Kansas-Nebraska's economic standards.

⁷ Applicant is filing under Gas Purchase Contract amendment dated as of February 14, 1983.

⁸ Applicant is filing under Gas Purchase and Sales Agreement dated July 25, 1979, amended by Amendment Agreement dated October 9, 1981.

⁹ Effective as of January 1, 1983, Petro-Lewis and its affiliate Petro-Lewis Funds, Inc. acquired through purchase from Conoco all of Conoco's remaining working interest in gas sold to transcontinental Gas Pipe Line Corporation from the Mustang Island Area Block 85 Field, Offshore Texas, under the September 1, 1981 Gas Purchase Agreement between Transco and Conoco.

¹⁰ Pursuant to a Farmout Agreement dated October 18, 1979, Getty Oil Company acquired certain rights, title and interest in the lands and leases which are dedicated to the March 1, 1972 contract.

¹¹ Applicant is filing under Gas Purchase Contract dated December 17, 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. 83-8179 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER79-150-008]

Southern California Edison Co.; Compliance Filing

March 25, 1983.

Take notice that on March 18, 1983 Southern California Edison Company submitted for filing revised rates pursuant to the Commission's Opinions Nos. 145 and 145-A, issued September 10, 1982 and November 24, 1982, respectively.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 13, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-8160 Filed 3-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2978-002, et al.]

Traverse City Light and Power Board, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Application for Minor License (5 MW or Less).

b. Project No.: 2978-002.

c. Date Filed: February 3, 1983.

d. Applicant: Traverse City Light and Power Board.

e. Name of Project: Brown Bridge Dam Hydro Project.

f. Location: Traverse City, Grand Traverse County, Michigan on the Boardman River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contract Person: Mr. W. Peter Doren, General Counsel, Light and Power Board of the City of Traverse City, P.O. Box 592, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

i. Comment Date: May 31, 1983.

j. Description of Project: The proposed run-of-river Brown Bridge Dam Hydro Project would consist of: (1) An existing earth and concrete dam 2,400-foot long and 30-foot high with two 12-foot wide steel tainter gates; (2) an existing reservoir having a storage capacity of 2,000 acre-feet; (3) an existing powerhouse containing two generating units with a capacity of 830 kW; (4) a transmission line approximately 13 miles long; and (5) appurtenant facilities. The Applicant estimates the average annual energy generation would be 2,887

MWh. All power generated would be utilized by Traverse City Light and Power Department.

1. The notice also consists of the following standard paragraphs: A2, B, C, and D1.

2a. Type of Application: Preliminary Permit.

b. Project No.: 7083-000.

c. Date Filed: February 14, 1983.

d. Applicant: Savage Rapids Associates.

e. Name of Project: Savage Rapids.

f. Location: Josephine and Jackson Counties, Oregon; Rogue River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contract Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing 39-foot-high, 456-foot-long Savage Rapids Dam owned and operated by the Grants Pass Irrigation District; (2) the existing 50-acre Savage Rapids Reservoir; (3) the existing headworks and fish passage facilities within the north embankment of the dam; (4) a powerhouse with a total installed capacity of 7.5 MW; (5) a substation; and (6) a 1-mile-long, 12.5-kV transmission line connecting with the existing power grid. A preliminary permit does not authorize construction. Applicant seeks a 24 month permit to study the feasibility of constructing and operating the project. These studies would not require construction of any new roads and are estimated to cost \$150,000.

k. Purpose of Project: The estimated annual output of 35 to 45 million kWh from the project would be sold to Bonneville Power Administration or other utility.

1. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2.

3a. Type of Application: Preliminary Permit.

b. Project No.: P-7095-000.

c. Date Filed: February 22, 1983.

d. Applicant: Christopher McGill.

e. Name of Project: Wilmington Water Power Project.

f. Location: Ausable River, in Essex County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contract Person: Christopher McGill, P.O. Box 150, Wilmington, New York 12997.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed run-of-river project would consist of: (1) An existing concrete dam, approximately 227 feet long and 19 feet

high, with an ogee spillway section; (2) a reservoir having minimal pondage; (3) an existing intake structure and short penstock at the left dam abutment; (4) a new powerhouse containing a turbine-generator unit having a total rated capacity of 250 kW; (5) a tailrace returning flow to the Ausable River approximately 70 feet downstream of the dam; (6) a new 13-kV transmission line, 275 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be between 1,100,000 kWh and 1,500,000 kWh. Project energy would be sold to the New York State Electric and Gas Corporation. The owners of the existing facilities are the New York State Electric and Gas Corporation and the Town of Wilmington, New York.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for a FERC license. Applicant estimates the cost of the studies under the permit would be \$25,000.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 6887-000.

c. Date Filed: November 26, 1982.

d. Applicant: Alabama Municipal Electric Authority.

e. Name of Project: Warrior Hydroelectric Project.

f. Location: Black Warrior River, Hale and Greene Counties, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Kenneth Everett, Secretary and Treasurer, Alabama Municipal Electric Authority, P.O. Box 2128, Dothan, Alabama 36301.

i. Comment Date: May 9, 1983.

j. Description of Project: The proposed would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6887 would consist of: (1) A proposed 450-foot-long and 150-foot-wide forebay and a 450-foot-long and 150-foot-wide tailrace, to be excavated from the bank on the right side of the dam; (2) a proposed watertight powerhouse structure to be built in the excavated forebay and tailrace channel; (3) the proposed installation of 2 double regulated, axial flow turbine/generator units with a total installed capacity of 10

MW; (4) a proposed transmission line approximately 5 miles long and interconnecting with the Alabama Power Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output will be 35 GWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

5 a. Type of Application: Application for License (under 5 MW).

b. Project No: P-3940-001.

c. Date Filed: November 3, 1982.

d. Applicant: City of Denton, Texas.

e. Name of Project: Lewisville Dam.

f. Location: Trinity River, Denton County, Texas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. R. E. Nelson, P. E., Director of Utilities, Municipal Building, 215 East McKinney, Denton, Texas 76201.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed run-of-the-river project would utilize the U.S. Army Corps of Engineers Lewisville Dam and Reservoir and would consist of: (1) Two 60.0-inch diameter steel wyes bifurcating from an existing valve pit; (2) two 60.0-inch diameter penstocks, constructed of steel pipe encased in concrete, and each extending 140.0 feet; (3) two reinforced concrete powerhouses, each 31.0 feet long and 22.0 feet wide, and each containing a single generating unit of 1,000 kW giving a total installed capacity of 2,000 kW; (4) two reinforced concrete tailraces, 11.0 feet wide and 24.0 feet long; (5) a 12.5-kV transmission line, 215.0 feet long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 10,100,000 kWh. This license application was filed during the term of Applicant's preliminary permit for Project No. 3940.

k. Purpose of Project: Project power will be sold to the Denton County Electric Cooperative.

l. This notice also consists of the following standard paragraphs: D1, A2, B and C.

6 a. Type of Application: Preliminary Permit.

b. Project No: P-6998-000.

c. Date Filed: January 13, 1983.

d. Applicant: Upper Mississippi Water Company.

e. Name of Project: Muskingum Lock & Dam No. 3.

f. Location: Lock & Dam No. 3 on the Muskingum River in Washington County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Loren E. Dessonville, 1650 Farnam Street, Omaha, Nebraska 68102.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed project would consist of the following: (1) The existing Muskingum Lock and Dam No. 3, which is owned and operated by the Ohio Department of Natural Resources, and includes a rockfill crib dam 20 feet high and 840 feet long, a 4,400-foot-long canal, and locking facilities; (2) an existing impoundment extending upstream approximately 10 miles at surface elevation 607 feet M.S.L.; (3) a proposed 700-foot-long intake channel; (4) a proposed 100-foot by 150-foot powerhouse containing; (5) two proposed turbine/generator units with a total installed capacity of 7,000-kW; (6) a proposed 550-foot-long tailrace; (7) a proposed switchyard; (8) a proposed 1-mile-long transmission line; and (9) appurtenant facilities. Applicant estimates that the average annual generation would be 30,000 MWh.

k. Purpose of Project: Project energy will be sold to an investor owned or public utility such as VEPCO, Ohio Power Company, or Monongahela Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be \$80,000.

7a. Type of Application: Preliminary Permit.

b. Project No: 6891-000.

c. Date Filed: November 26, 1982.

d. Applicant: Alabama Municipal Electric Authority.

e. Name of Project: William Bacon Oliver Hydroelectric Project.

f. Location: Black Warrior River, Tuscaloosa County, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Kenneth Everett, Secretary and Treasurer, Alabama Municipal Electric Authority, P.O. Box 2128, Dothan, Alabama 36301.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6891 would consist of: (1) A proposed 500-foot-long and 100-foot-wide forebay and a 580-foot-long and 150-foot-wide tailrace, to be excavated from the bank on the right side of the dam; (2) a proposed watertight powerhouse structure to be built in the excavated forebay and tailrace channel; (3) the proposed installation of 3 double regulated, axial flow turbine/generator units with a total installed capacity of 15 MW; (4) a proposed transmission line approximately 2 miles long and interconnecting with the Alabama Power Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output will be 60 GWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

8 a. Type of Application: Preliminary Permit.

b. Project No: 7075-000.

c. Date Filed: February 14, 1983.

d. Applicant: Northern Wasco County People's Utility District.

e. Name of Project: McNary Dam Fish Attraction.

f. Location: On the Columbia River, at McNary Dam, near Umatilla, in Benton County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Harold E. Haake, Manager, Northern Wasco County People's Utility District, P.O. Box 621, The Dalles, Oregon 97058.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed project would consist of: (1) Two turbine-generating units, one rated at 2.7 MW and one rated at 4.3 MW, to be installed in two conduits of the existing Corps of Engineers' McNary Dam; and (2) an 1,800-foot-long transmission line. The average annual energy generation is estimated to be 41 million kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct feasibility studies and prepare an FERC license application. No new roads would be required. The cost would be \$130,000.

k. Purpose of Project: Power would be used in the Applicant's service area.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2.

8a. Type of Application: Preliminary Permit.

b. Project No: 7085-000.

c. Date Filed: February 14, 1983.

d. Applicant: Indian Flat Associates.

e. Name of Project: Indian Flat.

f. Location: On Merced River within Stanislaus-Calaveras Big Tree National Forest, in Mariposa County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: May 31, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high concrete diversion structure; (2) a 4-mile-long pipeline; (3) steel penstocks; (4) a powerhouse containing two generating units, each rated at 2.8 MW; and (5) a transmission line. The average annual generation is estimated to be 16.0 million kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct feasibility studies and prepare an FERC license application. No new roads would be required. The cost would be \$150,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

10a. Type of Application: Exemption of 5MW or less Hydroelectric Facility.

b. Project No: 6794-000.

c. Dated Filed: October 25, 1982.

d. Applicant: Stony Creek Hydro Company.

e. Name of Project: Mosquito Creek.

f. Location: On Mosquito Creek in Butte County, California within the Plumas National Forest, near the town of Paradise.

g. Filed Pursuant to: Energy Security Act 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. James E. Helmich, California Hydro Systems, Inc., 1330 21st Street, Suite 105, Sacramento, California 95814.

i. Comment Date: May 6, 1983.

j. Description of Project: The proposed project would consist of: (1) A 40-inch-high, 45-foot-long diversion structure; (2) an intake structure; (3) a 20-inch-diameter, 1,720-foot-long flume; (4) a 20-inch-diameter, 782-foot-long penstock; (5) a powerhouse containing generating units with a combined rated capacity of 650 kW, operating under a head of 450 feet; (6) a 10-foot-long tailrace; and (7) a 2-mile-long, 12-kV transmission line tying into an existing PG&E line.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms

of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Project power will be sold to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A1, B, C, D3a.

11a. Type of Application: Preliminary Permit.

b. Project No: 7103-000.

c. Date Filed: February 24, 1983.

d. Applicant: Wapello Associates.

e. Name of Project: Wapello

Hydroelectric Project (Mississippi River Lock and Dam #17).

f. Location: Wapello, Louisa County, Iowa on the Mississippi River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: May 31, 1983.

j. Description of Project: The proposed project would utilize facilities owned by the U.S. Corps of Engineers and consist of the Mississippi River Lock and Dam No. 17. The Wapello Hydro Project would include: (1) A new steel penstock; (2) a proposed concrete powerhouse located on the west bank of the river with a total capacity of 10.5 MW; (3) new transmission lines; and (4) appurtenant facilities. Applicant estimates the average annual generation to be 43,000 MWh. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

12a. Type of Application: Preliminary Permit.

b. Project No: 7104-000.

c. Date Filed: February 24, 1983.

d. Applicant: Seneca-Taylor Associates.

e. Name of Project: Seneca-Taylor Hydro Project (Mississippi River Lock and Dam #9).

f. Location: Seneca-Taylor, Alamakee County, Iowa on the Mississippi River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: May 31, 1983.

j. Description of Project: The proposed project would utilize facilities owned by the U.S. Corps of Engineers and consist of the Mississippi River Lock and Dam No. 9. The Seneca-Taylor Hydro Project would include: (1) a new steel penstock; (2) a proposed powerhouse located on the east bank of the river

with a total capacity of 10 MW; (3) new transmission lines; and (4) appurtenant facilities. Applicant estimates the average annual generation to be 52,000 MWh. All power generated would be sold to Wisconsin Power and Light Company.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

13a. Type of Application: Application for License (over 5 MW).

b. Project No.: P-3021-001.

c. Date Filed: May 25, 1982.

d. Applicant: Allegheny Electric Cooperative, Incorporated.

e. Name of Project: Allegheny River Lock and Dam No. 8 & No. 9.

f. Location: The Allegheny River in Armstrong County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. William F. Matson, Executive Vice President and General Manager, Allegheny Electric Cooperative, Incorporated, P.O. Box 1266, Harrisburg, Pennsylvania 17108.

i. Comment Date: June 1, 1983.

j. Description of Project: The proposed run-of-the-river project would utilize the U.S. Army Corps of Engineers Lock & Dam No. 8 and Lock & Dam No. 9.

The Lock & Dam No. 8 development would consist: (1) Collapsible flashboards, 1.0-foot-high for the 984.0-foot length of the crest level dam; (2) a reservoir behind the flashboards with a usable storage capacity of approximately 1,000 acre-feet and a crest elevation of 801.0 feet m.s.l. (no storage is usable by the project below the dam crest level); (3) an intake area consisting of a dredged channel 400.0 feet from the intakes; (4) a tailrace area consisting of an excavated channel 220.0 feet long and 100.0 feet wide; (5) a reinforced concrete powerhouse, approximately 160.0 feet long and 90.0 feet wide, with two 6,500 kW generating units giving a total installed capacity of 13,000 kW; (6) transmission lines; and (7) appurtenant facilities.

The Lock & Dam No. 9 development would consist of: (1) Collapsible flashboards, 1.0-foot-high for the 950.0-foot length of the crest level dam; (2) a reservoir behind the flashboards with a usable storage capacity of approximately 900 acre-feet and a crest elevation of 823.0 feet m.s.l. (no storage is usable by the project below the dam crest level); (3) an intake area consisting of a dredged channel 320.0 feet from the intakes; (4) a tailrace area consisting of an excavated channel 180.0 feet long and 100.0 feet wide; (5) a reinforced concrete powerhouse, approximately 160.0 feet long and 90.0 feet wide, with two 8,700 kW generating units giving a

total installed capacity of 17,400 kW; (6) transmission lines; and (7) appurtenant facilities.

This license application was filed during the term of Applicant's preliminary permits for FERC Projects Nos. 3021 and 3022, Lock and Dam No. 8 and No. 9, respectively. The total installed capacity of both developments is 30,400 kW. The Applicant estimates that the average annual energy output of both developments would be 187,627 MWh.

k. Purpose of Project: Project power will be used by the Applicant for marketing to its customers.

l. This notice also consists of the following standard paragraphs: A2, B and C.

14a. Type of Application: Minor License.

b. Project No.: P-6667-000.

c. Date Filed: September 1, 1982.

d. Applicant: Battle Ridge Land and Timber Company.

e. Name of Project: Battle Ridge Hydropower.

f. Location: On South Fork Clearwater River, within Nezperce National Forest, near Grangeville, in Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Vernon Ravenscroft, Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

i. Comment Date: June 3, 1983.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 6-foot-long diversion headgate; (2) a 4,050-foot-long, 66-inch-diameter steel penstock; (3) a powerhouse containing two generating units with a total installed capacity of 908 kW; (4) a 0.25-mile-long, 13-kV transmission line connecting the powerhouse to an existing Washington Water Power Company transmission line; and (5) appurtenant facilities. The Applicant estimates the average annual energy production at 6.95 million kWh.

k. Purpose of Project: The project power will be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

15a. Type of Application: License less than 5MW.

b. Project No: 6916-000.

c. Date Filed: December 9, 1982.

d. Applicant: City and County of Denver.

e. Name of Project: Strontia Springs.

f. Location: South Platte River in Douglas and Jefferson Counties, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. William H. Miller, Denver Water Department, 1600 W. 12th Avenue, Denver, Colorado 80254.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed project would be located partly on lands managed by the U.S. Bureau of Land Management and the Pike National Forest, and partly upon lands owned by the Denver Water Department. Hydropower development would be added on to the Strontia Springs Dam which is owned by the City and County of Denver.

The project would include: (1) The 299-foot high, 560-foot long, concrete Strontia Springs Dam; (2) the 98-acre Strontia Springs Reservoir; (3) a 42-inch diameter steel intake structure; (4) a 20-foot long, 42-inch diameter conduit; (5) a proposed 4-foot long, 42-inch diameter branch conduit; (6) a proposed 950 kW turbine/generator unit operating under a head of 214 feet; (7) a proposed 100-foot long transmission line; and (8) appurtenant facilities. The estimated average annual energy output is 6,700 MWh.

k. Purpose of Project: Project energy would be sold to Public Service Company of Colorado.

l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

16a. Type of Application: License (Major).

b. Project No: P-6984-000.

c. Date Filed: January 16, 1983.

d. Applicant: The Cascade Group.

e. Name of Project: Boulder Creek Hydroelectric Project.

f. Location: Skagit County, Washington near the Town of Marblemount.

g. Filed Pursuant to: 16 U.S.C. 791(a)-825(r).

h. Contact Person: Robert H. Campbell, Roberts & Sheffelman, 4100 Seafirst Fifth Avenue Plaza, 800 Fifth Ave., Seattle, Washington 98104 with copies to: Lyle Kuhns, President, BCP, Inc., Box 981, Anacortes, Washington 98221 and Harry P. Hosey, The Cascade Group, Northrup West Business Park, 2850 Northrup Way, Bellevue, Washington 98004.

i. Comment Date: May 31, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 30-foot-long diversion structure at elevation 2,069 feet; (2) a gated and screened intake structure; (3) a 32-inch-diameter, 9,120-foot-long buried steel penstock; (4) a powerhouse at elevation 595 feet containing two 3.75-MW generating units; (5) a 32-inch-diameter

steel tailrace pipe discharging into Boulder Creek at River Mile 0.3; (6) a switchyard adjacent to the powerhouse; (7) a 2.5-mile-long, 34.5-kV transmission line to Puget Sound Power & Light Company's existing transmission line along the Rockport-Cascade Road; (8) a 250-foot-long access road to the powerhouse; and (9) appurtenant facilities. The project would occupy 3.4 acres of U.S. Lands under the jurisdiction of the U.S. Department of the Interior, Bureau of Indian Affairs.

k. This notice also consists of the following standard paragraphs: A2, B and C.

17a. Type of Application: Preliminary Permit.

b. Project No: 7106-000.

c. Date Filed: February 24, 1983.

d. Applicant: Guttenberg Associates.

e. Name of Project: Guttenberg Hydro Project (Mississippi River Lock and Dam #10).

f. Location: Guttenberg, Clayton County, Iowa on the Mississippi River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed project would utilize facilities owned by the U.S. Corps of Engineers' Mississippi River Lock and Dam No. 10, and consist of: (1) A new steel penstock; (2) a proposed powerhouse located on the west bank of the river with a total capacity of 17.5 MW; (3) new transmission lines; and (4) appurtenant facilities. Applicant estimates the average annual generation to be GWh. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

18a. Type of Application: License (5 MW or Less).

b. Project No: 6713-000.

c. Date Filed: September 23, 1982.

d. Applicant: Gold Run Hydro Associates.

e. Name of Project: Secret Town Pipe Power.

f. Location: On Lower Boardman Canal in Placer County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Eddy Balocco, 2855 Mitchell Drive, Suite 140, Walnut Creek, California 94598.

i. Comment Date: May 9, 1983.

j. Competing Application: Project No. 6042 Date Filed: February 26, 1982.

Notice Issued: March 25, 1982.

k. Description of Project: The proposed project would consist of: (1) A

20-foot-long, 30-inch-diameter bifurcation section connected to an existing unpressurized 30-inch-diameter penstock, and the new powerhouse; (2) a powerhouse containing a turbine-generating unit with a rated capacity of 190 kW; (3) a 100-foot-long transmission line connecting to an existing Pacific Gas and Electric line; and (4) a 25-foot-long tailrace feeding into the Lower Boardman Canal. The Applicant estimates a 1,165,080 kWh annual energy production.

l. Purpose of Project: Power will be sold to local utilities.

m. This notice also consists of the following standard paragraphs: A2, B, C, D1.

19a. Type of Application: Revision to License Application (Over 5MW)

b. Project No: 2975-001

c. Date Filed: December 21, 1982

d. Applicant: Oakdale and South San Joaquin Irrigation Districts

e. Name of Project: Sand Bar

f. Location: On Middle Stanislaus River, within Stanislaus National Forest, near Strawberry, in Tuolumne County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Mr. J. W. Southern, Tri-Dam Project, Star Route, Box 1303, Sonora, California 95370.

i. Comment Date: May 6, 1983.

j. Description of Project: The project would also include transmission facilities consisting of: (1) A 13.8/115-kV substation; (2) a 2.5-mile-long, 115-kV transmission line connecting to Pacific Gas and Electric Company's (PG&E) Spring Gap transmission line and (3) appurtenant facilities. This notice supplements the February 8, 1982 Notice of Application for License for Project No. 2975.

k. Purpose of Project: The project power would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: B and C.

20a. Type of Application: Preliminary Permit

b. Project No: 7115-000

c. Date Filed: March 1, 1983

d. Applicant: City of Dothan, Alabama and Municipal Electric Authority of Georgia

e. Name of Project: George W. Andrews Hydro Project

f. Location: Dothan, Houston County, Alabama on the Chattahoochee River

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Mr. Arnold Fieldman of Goldberg, Fieldman and Letham, P.C., 1100 15th Street, NW., Washington, D.C. 20005

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed project would utilize facilities owned by the U.S. Corps of Engineers' George Andrews Lock and Dam and, consist of: (1) A new penstock; (2) a proposed powerhouse located on the west bank of the river with a total capacity of 16 MW; (3) new transmission lines; and (4) appurtenant facilities. Applicant estimates the average annual generation to be 70 GWh. All power generated would be used locally by the Applicants.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2

21a. Type of Application: Exemption
b. Project No: P-8923-000
c. Date Filed: December 13, 1982
d. Applicant: John C. Simmons
e. Name of Project: Argenta
f. Location: Lake Fork of the Gunnison River in Hinsdale County, Colorado.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Kenneth T. Meredith, P.O. Box 582, Lake City, Colorado 81235.

i. Comment Date: May 6, 1983.

j. Description of Project: The proposed project would consist of: (1) The reconstruction of an existing, 200-foot-long diversion channel; (2) the reconstruction of an existing concrete headgate; (3) a proposed surge tank; (4) three proposed penstocks, each 48-inches in diameter and 100 feet long; (5) a proposed powerhouse containing one 500 kW generator and one 1,000 kW generator with turbines operating under a head of 65 feet; (6) a proposed tailrace; (7) a proposed 300-foot-long transmission line; and (8) appurtenant facilities. Estimated average annual generation would be 3,240 MWh.

k. Purpose of Project: Project energy would be sold to Colorado-Ute Electric Association, Inc.

l. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

22a. Type of Application: Preliminary Permit

b. Project No: 7117-000

c. Date Filed: March 2, 1983

d. Applicant: White Hydropower Company

e. Name of Project: Oregon Water Power Project

f. Location: Ogle County, Illinois

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Mr. Mitchell M. and Mrs. Melba M. White, 1855 Glendale Road, Clinton, Iowa 52732

i. Comment Date: May 31, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing rock filled crib dam, which is 877 feet long and 12 feet high; (2) an existing powerhouse which would contain 3 generating units rated at 350 kW each for a total installed capacity of 1,050 kW; (3) a proposed 1,200 volt transmission line; and (4) appurtenant facilities. The estimated average annual energy output would be 8,500,000 kWh.

k. Purpose of Project: The Applicant proposes to sell the generated energy to Commonwealth Edison.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2

23a. Type of Application: License Over 5MW

b. Project No: 3258-002

c. Date Filed: December 30, 1982

d. Applicant: Joseph M. Keating

e. Name of Project: Pine Creek

f. Location: On Pine Creek, within Inyo National Forest, near Bishop, in Inyo County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Joseph Keating, 847 Pacific Street, Placerville, California 95667.

i. Comment Date: May 27, 1983.

j. Description of Project: The proposed project would consist of: (1) A 7-foot-high diversion structure; impounding, (2) a 0.3-acre pool; (3) a 140-foot-long, 42-inch-diameter pipe; (4) a 3.6-acre forebay; (5) a 13,500-foot-long, 42-inch-diameter steel penstock; (6) the Pine Creek Powerhouse with an installed capacity of 4,150 kW; (7) a tailrace-intake structure; (8) a 14,500-foot-long, 42-inch-diameter steel penstock; (9) the Rovanna Powerhouse with an installed capacity of 4,200 kW; (10) a 2.5-acre afterbay; (11) Lake Rovanna; and (12) two transmission lines. The average annual energy generation for both power houses is estimated to be 24.7 million kWh.

The project would be designed for automatic operation and would be operated for peaking.

k. Purpose of Project: Power would be sold to Southern California Edison Company.

l. This notice also consists of the following standard paragraphs: A2, B, C, and D2

24a. Type of Application: Amendment of License

b. Project No: P-2204-001

c. Date Filed: September 11, 1981, and revised June 23, 1982

d. Applicant: City and County of Denver, Colorado

e. Name of Project: Williams Fork

f. Location: On Williams Fork River, a tributary of the Colorado River, in Grand County, Colorado.

g. Filed Pursuant to: 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Paul D. McQuade, 1600 West 12th Avenue, Denver, Colorado 80254.

i. Comment Date: May 2, 1983.

j. Description of Amendment: An existing access road from the base of the dam to the top of the dam has been under a Special Land Use Permit from the Bureau of Land Management. An existing television antenna and an existing television transmission line are also located in the same general area.

Licensee has submitted revised Exhibits F (Legal Land Description), L (Engineering Road Description), and K (Project Boundary Map) to portray its proposal. The project boundary would be revised to include a parcel 200 feet in width (100 feet each side of road centerline) for the Upper Access road and a parcel 50 feet in width (25 feet each side of line centerline) for the T.V. Antenna Transmission Line. Because these parcels overlap and because portions of these parcels are already included within the project boundary, the total additional acreage proposed to be included within the project boundary would comprise only 12.22 acres.

The proposal would affect lands of the United States under the jurisdiction of the Bureau of Land Management. There would be no changes to project features, operation, or energy output.

k. This notice also consists of the following standard paragraphs: B and C.

25a. Type of Application: Application for License (under 5 MW)

b. Project No: P-3939-001

c. Date Filed: November 1, 1982

d. Applicant: City of Denton, Texas

e. Name of Project: Ray Roberts Dam

f. Location: Trinity River, Denton County, Texas

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. R.E. Nelson, P. E., Director of Utilities, Utilities Department, Municipal Building, 215 East McKinney, Denton, Texas 76201.

i. Comment Date: May 23, 1983.

j. Description of Project: The proposed run-of-the-river project would utilize the proposed U.S. Army Corps of Engineers Ray Roberts Dam and Reservoir and would consist of: (1) A 60.0-inch diameter penstock, constructed of steel pipe encased in concrete, and extending

175.0 feet; (2) a reinforced concrete powerhouse, 32.0 feet long and 22.0 feet wide, containing a single generating unit with an installed capacity of 1,000 kW; (3) a reinforced concrete tailrace, 18.0 feet wide and 44.0 feet long; (4) a 12.5-kV transmission line, 2,000 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7,750,000 kWh. This license application was filed during the term of the Applicant's preliminary permit for Project No. 3939-000.

k. Purpose of Project: Project power will be sold to the Denton County Electric Cooperative.

l. This notice also consists of the following standard paragraphs: D1, A2, B and C.

26a. Type of Application: License (Less than 5MW)

b. Project No: 4380-001

c. Date Filed: January 31, 1983

d. Applicant: Patapsco Hydro Associates, 840 Oella Avenue, Ellicott City, Maryland 21403

e. Name of Project: W. J. Dickey

f. Location: On the Patapsco River near Ellicott City, Baltimore County, Maryland

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Wayne L. Rogers, President, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401

i. Comment Date: May 20, 1983.

j. Description of Project: The proposed project would consist of: (1) Union Dam, an existing concrete, slab buttress structure 355 feet long and 24.5 feet high with a 209-foot spillway; (2) a small reservoir covering 3 acres with a storage capacity of 48 acre-feet; (3) an existing earthen power canal 1.6 miles long, 30 feet wide and 10 feet deep; (4) an existing steel penstock, 7 feet in diameter and 60 feet long; (5) a concrete powerhouse to be refurbished, measuring 20 by 23 feet and containing one refurbished 600-kV turbine/generator unit operating under an average head of 42 feet; (6) an existing 13-kV transmission line 200 feet long; and (7) appurtenant facilities.

This application for license was filed during the term of a preliminary permit issued on August 12, 1981.

k. Purpose of Project: The average annual generation of 2.1 million kWh would be sold to the Baltimore Gas and Electric Company

l. This notice also consists of the following standard paragraphs: A2, B, C and D1

27a. Type of Application: Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

b. Project No: 6136-001

c. Date Filed: February 1, 1983

d. Applicant: Ordell and Rita Portwood

e. Name of Project: North Fork Tule Creek

f. Location: Tulare County, California; North Fork of Tule River

g. Filed Pursuant to: Energy Security Act of 1980, Section 408, §§ 2705 and 2708, as amended

h. Contact Person: Ordell and Rita Portwood, P.O. Box 781, Wasco, California 93280

i. Comment Date: April 29, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 5.5-foot-high diversion structure with a 12-inch-diameter outlet pipe; (2) a 4,750-foot-long, 34-inch-diameter steel conduit; (3) a powerhouse with a total installed capacity of 600 kW; and (4) a 1000-foot-long, 12-kV transmission line connecting with an existing SCE transmission line.

k. Purpose of Project: The estimated annual output of 0.81 million kWh generated by the project would be sold to the Southern California Edison Company.

l. This notice also consists of the following standard paragraphs: A1, B, C, D3a

28a. Type of Application: License (5MW or Less)

b. Project No: 6762-000

c. Date Filed: October 12, 1982, and revised February 18, 1983

d. Applicant: New York State Energy Research and Development Authority

e. Name of Project: Northumberland

f. Location: Lock #5, Hudson River, towns of Thomson and Northumberland, Washington and Saratoga Counties, New York

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Mr. C. Todd Miles, NYSEDA, Two Rockefeller Plaza, Albany, New York 12223

i. Comment Date: May 2, 1983.

j. Completing Applications: Projects Nos. 3892-000, Georgia-Pacific Corp.; 4244-001, Long Lake Energy Corp. Date Filed: Both on 10/9/81

k. Description of Project: The proposed project would consist of: (1) the existing Lock 5 dam, a 12-foot high, 850-foot long masonry structure; (2) the existing Lock 5 Reservoir, having a surface area of 345 acres at elevation 102.87 feet USGS Datum with 18-inch high flashboards installed at the dam; (3) a 1,700-foot long portion of the existing barge canal; (4) a new 400-foot long intake canal with shipfender; (5) a new powerhouse containing a single 4 MW turbine-generator; (6) a new 500-foot long tailrace channel discharging approximately 4000-foot downstream of the project dam; (7) a switchyard located adjacent to the powerhouse; (8)

a 5400-foot long 34.5-kV transmission line; and (9) appurtenant facilities.

The dam, canal and proposed project site are owned by the State of New York Department of Transportation

l. Purpose of Project: Energy produced at the project would be sold to a utility to be determined

m. This notice also consists of the following standard paragraphs: A3, B, C and D1

29a. Type of Application: Preliminary Permit

b. Project No: 6890-000

c. Date Filed: November 26, 1982

d. Applicant: Alabama Municipal Electric Authority

e. Name of Project: Coffeetown Hydroelectric Project

f. Location: Tombigbee River, Clarke and Choctaw Counties, Alabama

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Mr. Kenneth Everett, Secretary and Treasurer, Alabama Municipal Electric Authority, P.O. Box 2128, Dothan, Alabama 36301

i. Comment Date: May 23, 1983.

j. Description of Project: The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6890 would consist of: (1) A proposed 1000-foot-long and 150-foot-wide forebay and a 850-foot-long and 150-foot-wide tailrace, to be excavated from the bank on the left side of the dam; (2) a proposed watertight powerhouse structure to be built in the excavated forebay and tailrace channel; (3) the proposed installation of 3 double regulated, axial flow turbine/generator units with a total installed capacity of 16.0 MW; (4) a proposed transmission line approximately 2 miles long and interconnecting with the Alabama Power Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output will be 55 GWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

30a. Type of Application: Preliminary Permit

b. Project No: 7065-000

c. Date Filed: February 9, 1983

d. Applicant: Lincoln County Associates

e. Name of Project: Long Lake Dam Canal Hydroelectric

f. Location: Lincoln County, WA near Town of Lincoln at the Bureau of Reclamation's Long Lake Dam

g. Filed Pursuant to: 16 U.S.C. 791(a)-825(r)

h. Contact Person: Mr. T. B. Forbes, P.O. Box 421, Mercer Island, WA 98040 with a copy to: Joel Rector, Attorney.

4832 Colony Circle, Salt Lake City, Utah 84117

i. Comment Date: May 23, 1983.

j. Description of Project: The proposed project would consist of: (1) A gated intake structure adjacent to the existing canal headworks; (2) a surface penstock; (3) a powerhouse containing generating units with a total capacity of 67.61 MW; (4) a short tailrace returning flows to the canal; (5) and a transmission line approximately one mile long. The average annual energy output of the project would be 267,500 MWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new road construction will be required for the purpose of conducting these studies. The estimated cost for conducting these studies is \$50,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2

a. Type of Application: Preliminary Permit

b. Project No: 7067-000

c. Date Filed: February 9, 1983

d. Applicant: Conway Ranch

Partnership

e. Name of Project: Mill Creek Irrigation

f. Location: On Mill Creek within Inyo National Forest, near Lee Vining, In Mono County, California

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: David Holzman, P.O. Box 864, June Lake, California 93529

i. Comment Date: May 23, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 4-foot-high, 4-foot-wide, and 7-foot-long redwood diversion structure; (2) a 20,000-foot-long, 42-inch-diameter penstock in an existing canal; (3) a power house containing one generating unit rated at 900 kW; and (4) a transmission line. The average annual energy generation is estimated to be 6.8 million kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 18 months during which it would conduct feasibility studies and prepare an FERC license application at a cost of \$72,000. No new roads would be required for the studies.

k. Purpose of Project: Power would be sold to South California Edison Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2

a. Type of Application: Preliminary Permit

b. Project No: 7102-000

c. Date Filed: February 24, 1983

d. Applicant: Trempealeau Associates

e. Name of Project: Trempealeau Hydropower Project (Mississippi River Lock and Dam #6)

f. Location: Trempealeau County, Wisconsin

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040 and Mr. Joel Rector, Attorney at Law, 4831 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: May 23, 1983.

j. Description of Project: The proposed project would consist of: (1) A proposed powerhouse with a generating unit rated at 10.8 MW; (2) a proposed 69 kV transmission line; and (3) appurtenant facilities. Applicant would utilize an existing dam and lands owned by the U.S. Army Corps of Engineers. The estimated annual energy output would be 30,766 MWh.

k. Purpose of Project: The Applicant proposes to sell the generated power to Wisconsin Public Power System.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2

a. Type of Application: Preliminary Permit

b. Project No: 7105-000

c. Date Filed: February 24, 1983

d. Applicant: Davenport—Rock Island Associates

e. Name of Project: Davenport—Rockland Hydro Project (Mississippi River Lock and Dam #15)

f. Location: Rock Island County, Illinois on the Mississippi River

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040

i. Comment Date: May 25, 1983.

j. Description of Project: The proposed project would utilize facilities owned by the U.S. Corps of Engineers' Mississippi River Lock and Dam No. 15, and consist of: (1) A new steel penstock; (2) a proposed powerhouse located on the east bank of the river with a total capacity of 16.5 MW; (3) new transmission lines; and (4) appurtenant facilities. Applicant estimates the average annual generation to be 95,000 MWh. All power generated would be sold to Iowa-Illinois Gas and Electric Company.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33(a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or

before 30-days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §§ 385.210, .211, .214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies

required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be

included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: March 25, 1983.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-8101 Filed 3-29-83; 8:45 am]
BILLING CODE 6717-01-M

Office of the Secretary National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Petroleum Council

Date and Time: Thursday, May 19, 1983—10:00 a.m.

Place: The Madison Hotel, Dolley Madison Ballroom, 15th and M Streets, NW., Washington, D.C.

Contact: Gerald J. Parker, U.S. Department of Energy, Office of Oil, Gas and Shale Technology, Mail Stop D-122, GTN, Washington, D.C. 20545, Telephone: 301-353-3032.

Purpose of Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative Agenda: Briefings and discussions of:

- Call to Order by Chairman of the National Petroleum Council
- Remarks by the Secretary of Energy
- Reports of the Study Committees of the National Petroleum Council:
 - a. Committee on Enhanced Oil Recovery
 - b. Committee on Petroleum Inventories and Storage Capacity
- Consideration of Any Other Business Properly Brought Before the National Petroleum Council
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gerald J. Parker at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on March 24, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-0093 Filed 3-29-83; 8:45 am]

BILLING CODE 6450-01-M

NUCLEAR REGULATORY COMMISSION

Compliance With Section 223 of the Nuclear Waste Policy Act of 1982

Action: Notice of offer to cooperate with and provide technical assistance to nonnuclear weapon states in the field of spent nuclear fuel storage and disposal.

Summary: The Department of Energy and the Nuclear Regulatory Commission, in accordance with Section 223 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425), January 7, 1983

(the Act), hereby offer nonnuclear weapon states their cooperation and technical assistance in alleviating problems that may develop from accumulation of spent nuclear fuel. Available resources, scope, criteria, and modes of cooperation are described in this offer, which will be updated and reissued annually for the next 5 years.

Background: Section 223 of the Act provides that "it shall be the policy of the United States to cooperate with and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal."

Section 223(b)(1) of the Act requires that within 90 days of enactment of the Act the Department of Energy and the Nuclear Regulatory Commission shall:

* * * publish a joint notice in the Federal Register stating that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of at-reactor spent fuel storage; away-from-reactor spent fuel storage; monitored, retrievable spent fuel storage; geologic disposal of spent fuel; and the health, safety, and environmental regulation of such activities. The notice shall summarize the resources that can be made available for international cooperation and assistance in these fields through existing programs of the Department and the Commission, including the availability of: (i) Data from past or ongoing research and development projects; (ii) consultations with expert Department or Commission personnel or contractors; and (iii) liaison with private business entities and organizations working in these fields.

It is the intention of the Department of Energy and the Nuclear Regulatory Commission to offer to provide cooperation and technical assistance to other nations to improve spent fuel storage conditions as deemed necessary. It is not the intention of this offer to include transfer to the United States of spent fuel from foreign nuclear power reactors.

Section 223(c) of the Act specifies:

Following publication of the annual joint notice referred to in paragraph (2), the Secretary of State shall inform the governments of non-nuclear weapon states and, as feasible, the organizations operating nuclear powerplants in such states, that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of spent fuel storage and disposal, as set forth in the joint notice. The Secretary of State shall also solicit expressions of interest from non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators concerning their participation in expanded United States cooperation and technical assistance programs in these fields. The Secretary of State shall transmit any such expressions of interest to the Department and the Commission.

Discussion and Description of Proposed Cooperative Activities and Programs: For several years the United States has been cooperating with other nations as well as international organizations in areas related to spent fuel handling, storage, and disposition. The Department of Energy and the Nuclear Regulatory Commission have adhered to policies of sharing the results of their studies and programs in these areas with other nations and they have sought to establish a framework to permit U.S. private organizations working in these fields to cooperate with their counterparts in the other nations. To the extent feasible, it is the intention of the Department of Energy and the Nuclear Regulatory Commission to augment their international cooperative ties in these areas. Any arrangements relative to funding of joint research and development projects will be developed on a case by case basis subject to program demands and the authorization and appropriation of funds by Congress.

In the course of developing the proposed new arrangements with other governments or foreign institutions, both the Department of Energy and the Nuclear Regulatory Commission will be guided by a number of factors and criteria, including the following:

- Whether the proposed program of cooperation will be useful in assisting a nonnuclear weapon state in overcoming significant and timely spent fuel storage or handling problems;
- Whether the arrangements will serve to advance knowledge in the field;
- Whether the arrangements will help solve common spent fuel handling problems; and
- Whether the arrangements will contribute to more predictability in fuel cycle operations.

While it is anticipated that in the near future most nations will be able to solve their spent fuel storage problems on a national basis, this is an area that could benefit from enhanced international cooperation. As noted by the Final Report of the International Atomic Energy Agency's Expert Group on International Spent Fuel Management (IAEA-ISFM/EG/26, Rev. 1, page 4, July 1982), prior to 1990 there is reasonably good assurance that adequate provision for dealing with spent fuel will exist. During the 1990s, however, the Report states that greater reliance must be placed on spent fuel management options which are now mainly in the planning stage, and further states that "By the year 2000 additional capacity remains to be identified and eventually

provided. As greater reliance is placed upon planned facilities, some international cooperation could provide greater assurances that adequate means to deal with the spent fuel arisings would be provided."

Some new storage technologies now under development hold promise for achieving further economies in storage arrangements. Also, there are incentives for developing common standards and guidelines between nations relating to the conditions for shipping spent fuel, nations can benefit from comparing information on the applicable regulatory practices, and in some cases it may be productive for nations sharing common spent fuel storage problems to explore new institutional mechanisms designed to facilitate joint action.

The following paragraphs in this notice briefly summarize the nature of the activities of the Department of Energy and the Nuclear Regulatory Commission in these areas as well as the major cooperative activities that these agencies would propose to explore or engage in, as circumstances warrant.

The U.S. Department of Energy: The Department of Energy is now working with industry and utilities to assure that sufficient spent fuel storage capacity will be available for meeting U.S. domestic needs. U.S. utilities operating power reactors are presently storing spent fuel in water-filled pools at their reactor sites. In the next few years additional capacity will be needed at some sites and the gravity of this problem could increase rapidly unless additional storage capacities are made available on a timely basis. Accordingly, the Department of Energy, industry, and utilities are now actively developing alternative methods for consolidating, transporting, and storing spent light water reactor fuel in order to increase storage capacity.

The emphasis of this domestic program is to work jointly with industry for developing and licensing alternative storage technologies. Within this context, the Department of Energy is now in the process of working with industry and utilities in developing and demonstrating spent fuel rod consolidation and dry storage equipment and technology in support of utility license applications and is participating in efforts to assure the licensability of the entire system for handling, packaging, transportation, and storage. In addition, the conceptual alternatives of monitored retrievable storage systems have been studied.

With these considerations in mind, and considering the criteria cited above, the Department of Energy is prepared to engage in the following kinds of

cooperative activities with nonnuclear weapon states and international organizations:

- To provide information, in the form of exchanges of documents and reports, on Department of Energy funded research and development projects in the specific areas of spent fuel handling and storage; pool storage; spent fuel packaging for storage or disposal; dry storage in metal casks, drywells, vaults and concrete silos; and on the technology of away-from-reactor and monitored retrievable storage;
- To arrange, on an appropriate basis, visits and briefings between foreign representatives and Department of Energy and Contractor personnel in those areas and to facilitate, within the terms of applicable U.S. business entities and organizations with specialized capabilities in these fields;
- To arrange consultations between foreign representatives and expert Department of Energy and contractor personnel to review and comment on, as appropriate, other nations' proposed development program plans and facility designs;
- To furnish, under mutually agreed terms, information on certain U.S. standards and verified computer codes that may be used for equipment, component and facility design; and
- To cooperate, as appropriate, with international organizations to disseminate information to nonnuclear weapons states.

As U.S. program demands and the authorization and appropriation of funds by Congress permit, the Department of Energy also is prepared to participate in jointly funded development and demonstration activities such as:

- The demonstration of concepts for disassembling spent fuel assemblies and for consolidating fuel rods in operating reactor pools;
- The development and demonstration of technology for packaging spent fuel for storage and disposal;
- Activities related to assessing the feasibility of away-from-reactor storage, including foreign participation in or observation of U.S. tests and demonstrations of equipment and technology for dry storage of spent fuels; and
- The conduct of joint studies to evaluate monitored retrievable spent fuel storage.

In addition to the management of spent fuel in retrievable modes, the Department of Energy also is conducting extensive research and development on the geologic disposal of nuclear waste, including the spent fuel option. Where

there is mutual interest, information in these areas can be exchanged through:

- The transmittal of published information;
- Arrangement of visits and consultations with the Department of Energy and contractor experts on spent fuel disposal methodology;
- Program planning; and
- Systems analyses.

The research and development activities conducted under the Department of Energy geologic isolation program include:

- The detailed characterization of spent fuel;
- Research and systems studies on spent fuel disposal packages and containers, and their materials;
- Safety analyses; and
- Disposal repository designs, including their performance evaluations in various host rock media.

As part of these activities, the U.S. Geological Survey is also available through the Department of Energy for discussions on the earth science characteristics of disposal sites.

Under the cooperative activities that have been described above, the information to be provided could possibly include exchanges of documents and reports, visits between specialists, short- or long-term assignments, the undertaking of joint seminars and meetings, and jointly supported research and development projects.

The Nuclear Regulatory Commission: In regard to the issue at hand, the Nuclear Regulatory Commission is responsible for safety and environmental reviews, licensing, inspection and enforcement, and the conduct of research on the safety and environmental regulation of reactor waste in the United States, including the handling, storage, treatment, and disposal of spent reactor fuel. These responsibilities include licensing dry and wet at-reactor and away-from-reactor storage, monitored retrievable storage, and spent fuel and waste disposal (including geologic disposal) at permanent repositories.

The Nuclear Regulatory Commission is prepared to cooperate with, and provide technical assistance to, nonnuclear weapon states in the areas of the health, safety and environmental regulation of spent fuel management and disposal activities. Cooperation could include the following:

- Making available data from past and ongoing research and regulatory efforts: These data consist of

evaluated and documented experimental results, validated and fully documented computer codes, and research results for which documentation and evaluation are complete. These data are primarily documented as written reports, which the Nuclear Regulatory Commission can provide in specific technical subject areas, as agreed. State-of-the-art information on ongoing safety research programs can be acquired through attendance by representatives from participating countries at the annual Water Reactor Safety Research Information Meeting and other occasional topical meetings. Additional data more directly related to regulatory activities, such as regulations, standards, and guides, can also be provided as appropriate in specific subject areas as requested;

- Consulting with expert Nuclear Regulatory Commission personnel and Nuclear Regulatory Commission contractor staff. As arranged by specific agreement with the Nuclear Regulatory Commission, expert technical consultation can be provided by Nuclear Regulatory Commission personnel and, as needed, by contractor employees in the regulatory areas within the Commission's purview;
- Helping (to the extent permitted by U.S. laws, regulations, and policies) foreign governments to establish initial contacts with private U.S. entities that conduct business in the applicable waste management activities;
- Cooperating, as appropriate, with international organizations to disseminate information to nonnuclear weapon states; and
- Participating in joint research programs. The Nuclear Regulatory Commission is ready to negotiate and engage in jointly funded research programs with appropriate foreign entities, subject to the authorization and appropriation of funds by the Congress.

Relationships With Multinational Organizations and International Scientific Bodies: In addition to the foregoing activities, and within the framework of such foreign policy guidance as may be provided by the U.S. Department of State, it is expected that the Nuclear Regulatory Commission and Department of Energy will continue to participate in activities related to spent fuel handling that are undertaken by international organizations, if appropriate. These organizations have sponsored a range of activities relevant

to this subject, and it is recognized that some nonnuclear weapon states may wish to avail themselves of the services of these bodies as well as the cooperative programs that are available bilaterally. The Nuclear Energy Agency of the Organization for Economic Cooperation and Development, for example, has been actively involved in studies related to the disposal of nuclear wastes. Also, as mentioned above, through the efforts of an Expert Group on International Spent Fuel Management, the International Atomic Energy Agency recently completed a study on the potential for international cooperation in the management of spent fuel, giving emphasis to technical, economic, institutional, and legal considerations. Several of the recommendations of this International Atomic Energy Agency Expert Group could serve as a stimulus for further cooperative initiatives. Areas that may merit further study include the establishment of nuclear safety standards recommended by the International Atomic Energy Agency for spent fuel storage and transport, and possible further studies, as the interests of the international community dictate, such as multinational or regional approaches to spent fuel management and disposal.

Storage and Disposition of Research Reactor Spent Fuels: The cooperative programs described in this announcement are addressed to the problems associated with the storage and handling of power reactor spent fuel that originates primarily in light water reactors. As such, they do not address any issues associated with the accumulation of foreign research reactor fuels.

Solicitation of Expressions of Interest from Nonnuclear Weapon States: As the next step in developing this offer of cooperation and technical assistance, nonnuclear weapon states will be contacted through diplomatic channels to acquaint them with this proposal and to solicit expressions of interest. The Department of State will transmit any such expressions of interest to the Department of Energy and the Nuclear Regulatory Commission.

Requests for Information: Inquiries about this notice may be sent to the following:

R. L. Morgan, Project Director, Nuclear Waste Policy Act Project Office, U.S. Department of Energy, Washington, D.C. 20585 (Tel. No. 202/252-6850)

Joseph D. Lafleur, Jr., Deputy Director, Office of International Programs, U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555 (Tel. No. 301/492-7131)

Dated: March 24, 1983.

Donald Paul Hodel,

Secretary of Energy, Department of Energy.

Dated: March 21, 1983.

Nunzio J. Palladino,

Chairman, Nuclear Regulatory Commission.

(FR Doc. 83-8149 Filed 3-29-83; 8:45 am)

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ENVIRONMENTAL PROTECTION AGENCY

PF-316; PH-FRL 2332-5 Certain Companies; Pesticide Petitions; Sandoz Inc. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to: Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF-316] and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m., to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, 703-557-2386.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filing

PP 3F2831. Sandoz Inc. Crop Protection, 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. Proposes amending 40 CFR 180.356 by establishing tolerances for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-m-tolyl)-3(2H)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha,

alpha, alpha-trifluoro-m-tolyl)-3(2H)-pyridazinone] in or on the commodity grapes at 0.1 part per million (ppm.) The analytical method for determining residues is gas chromatography using an electron capture detector.

Amended Petition

PP 2F2709. Elanco Products Co., 740 South Alabama St., Indianapolis IN 46285. EPA issued a notice, published in the Federal Register of July 28, 1982 (47 FR 32602), that announced that Elanco Products Co. had submitted pesticide petition 2F2709 to the Agency proposing a tolerance for the combined residues of the herbicide fluridone (1-methyl-3-phenyl-4-[3-(trifluoro-methyl)phenyl]-4-(1H)-pyridinone) and its metabolite (1-methyl-3-(4-hydroxyphenyl)-5-[3-(trifluoromethyl)phenyl]-4-(1H)-pyridinone) in the commodity fish at 0.5 ppm.

Elanco Products Co. has amended the petition by proposing tolerances in or on:

1. Eggs, fat, meat and meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, poultry, sheep, and milk at 0.05 ppm.

2. Liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm.

Elanco Products Co. has further amended the petition by proposing tolerances for the herbicide fluridone (1-methyl-3-phenyl-5-[3-(trifluoro-methyl)phenyl]-4-(1H)-pyridinone) in or on the commodities citrus, cucurbits, fruiting vegetables, grain crop, leafy vegetables, nuts, pome fruit, root crops vegetables, seed and pod vegetables, small fruit, and stone fruit at 0.05 ppm and forage grasses and legumes at 0.15 ppm.

These proposals apply to residues of fluridone transferring to these commodities through irrigation water. The proposed analytical method for determining residues is high pressure liquid chromatography.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136))

Dated: March 18, 1983.

Douglas D. Camp, Jr.
Director, Registration Division, Office of Pesticide Programs.

(FR Doc. 83-8014 Filed 3-29-83; 8:45 am)

BILLING CODE 6560-50-M

[OPP-30209E; PH-FRL 2332-4]

William G. Roessler; Approval of Application to Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by William G. Roessler, to register the disinfectant Requat Antimicrobial 1977 Liquid, containing an ingredient not included in any previously registered pesticide product, pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: John Lee, Product Manager (PM) 31, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2, Rm. 252, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-3663).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of January 6, 1982 (47 FR 672) that announced that William G. Roessler, 7103 Rock Creek Drive, Frederick, MD 21701, had submitted an application to register the disinfectant Requat Antimicrobial 1977 Liquid containing 45 percent of the active ingredient *N,N*-didecyl-*N*-methyl-3-(trimethoxysilyl) propanaminium chloride, an ingredient not included in any previously registered product.

The application was approved on November 8, 1982 for general use in pesticide formulation. The product was assigned EPA Registration No. 46620-1.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act, and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: March 18, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

(FR Doc. 83-8015 Filed 3-29-83; 8:45 am)

BILLING CODE 6560-01-M

[OPP-30220A; PH-FRL 2332-2]

Searle Chemicals, Inc.; Approval of Application to Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by the Searle Chemicals, Inc. to register the disinfectant Metronidazole, containing an ingredient not included in any previously registered pesticide product, pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: John Lee, Product Manager (PM) 31, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2, Rm. 301, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-3663).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of July 28, 1982 (47 FR 32601) that announced that the Searle Chemicals, Inc., PO Box 8526, Chicago, IL 60680, had submitted an application to register the disinfectant Metronidazole containing 97 percent of the active ingredient (2-methyl-5-nitroimidazole-1-ethanol), an ingredient not included in any previously registered product.

The application was approved on November 24, 1982, for general use in pesticide formulation. The product was assigned EPA Registration No. 8818-3.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act, and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: March 18, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

[FR Doc. 83-6016 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-31061; PH-FRL 2329-8]

Applications to Register Pesticide Products Involving Changed Use Pattern; American Cyanamid Co. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register or amend registration of pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by April 29, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-31061] and the file or registration number, should be submitted to the manager (PM) cited at the address below: Product Manager (PM), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. EPA Registration No: 241-238. Applicant: American Cyanamid Co., PO Box 400, Princeton, NJ 07470. Product name: Counter 15-G Soil Insecticide-Nematicide. Insecticide. Active ingredient: Terbufos [S-[[[1,1-dimethylethyl]thio]methyl] O,O-diethyl phosphorodithioate] 15.0%. Proposed classification/Use: General. To include in its presently registered ground use the new use for aerial application on corn. Type registration: Conditional. (PM 16-William Miller, (703-557-2600)).

2. File Symbol: 2693-REL. Applicant: International Paint Co., Inc., 2270 Morris Ave., Union, NJ 07083. Product name: Interswift Copolymer Antifouling Red BKA027. Antifoulant. Active ingredient: Zineb, zinc-ethylene-bis-

dithiocarbamate 2.4%. Proposed classification/Use: General. To include in its presently registered use as an agricultural fungicide the new use as an antifoulant in a paint formulation. Type registration: Conditional. (PM 23-Richard Mountfort, (703-557-1830)).

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended).

Dated: March 18, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-7626 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/28D; PH-FRL 2333-2]

Wood Preservatives; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a public meeting to solicit comments about modifications to the terms and conditions of registration which the Agency intends to implement for the pesticides creosote, pentachlorophenol, and the inorganic arsenicals.

DATE: The meeting will be held on April 14, 1983, from 1:00 p.m. to 3:00 p.m.

ADDRESS: The meeting will be held in: Rm. 1119, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Paul Lapsley, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Environmental Protection Agency, Rm. 711-G, Crystal Mall No. 2,

1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7420).

SUPPLEMENTARY INFORMATION: EPA issued a notice of Rebuttable Presumption Against Registration (RPAR), which was published in the Federal Register of October 18, 1978 (43 FR 48154), for three wood preservative pesticides: pentachlorophenol (penta) and its salts, creosote, and the inorganic arsenicals. The Agency expressed concern that uses of these compounds may result in unreasonable adverse effects. For penta or its salts, the Agency's concerns were related to the pesticides' potential for producing oncogenic, teratogenic, and fetotoxic effects; for creosote the effects were oncogenicity and mutagenicity. For inorganic arsenicals, oncogenic, mutagenic, and teratogenic effects were the bases for concern.

EPA issued a risk/benefit review, which was published in the Federal Register of February 19, 1981, (46 FR 13020), of the uses of the wood preservative pesticides and proposed regulatory actions to reduce the risks to an acceptable level. As a result of discussions with industry representatives, the Agency has modified certain regulatory proposals contained in the preliminary notice, either because new information submitted by the registrants indicated that the risks were lower than estimated by the Agency, or because risk reduction measures suggested by the registrants offered equivalent risk reductions to the regulatory actions proposed by the Agency. The Agency believes that these proposed modifications to the terms and conditions of registration, which the majority of the registrants voluntarily agree to implement, will cause the benefits of use to exceed the risks of use.

At the April 14, meeting, EPA will brief all interested parties on the modifications to the terms and conditions of registration which industry has agreed to implement regarding these three wood preservative pesticides. Copies of the proposal will be provided at the briefing; written comments may then be submitted to EPA for consideration prior to the publication of the final decision which will conclude the RPAR process. The procedures for submitting comments will be described at the meeting.

Dated: March 22, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-6184 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140033; TSH-FRL 2334-3]

Toxic Substances; ICF, Inc. and Putnam, Hayes and Bartlett, Inc.; Transfer of Data to Contractor and Subcontractor**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has contracted with ICF, Inc. (ICF) (primary contractor), and Putnam, Hayes, and Bartlett, Inc. (PHB) (subcontractor), to review and analyze information reported under section 5 of the Toxic Substances Control Act (TSCA). Some of the material which ICF and PHB will review will contain confidential business information.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Jack P. McCarthy, Director, Industry Assistance Office (IS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St. SW., Washington, D.C. 20460; Toll-free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: A person who intends to manufacture a new chemical substance is required by section 5 of TSCA, 15 U.S.C. 2604, to submit a premanufacture notice (PMN) to the Administrator of EPA at least 90 days before commencement of manufacture. EPA examines the PMN and determines whether regulatory action should be taken under section 5. If no action is taken, the submitter may manufacture the chemical at the end of the 90-day period.

In reviewing PMNs, EPA considers data and information on health and environmental effects of the chemical substance, on exposure to the chemical substance, and on other relevant effects. One technique used by EPA in the PMN review process is known as structural activity relationship (SAR), in which the chemical structure of the new chemical substance is analyzed for health and environmental effects likely to be associated with the new chemical structure.

EPA has contracted with ICF and PHB (contract No. 68-01-6287) to design various analytical comparison projects that could be undertaken to evaluate the use and application of SAR techniques as applied to the review of PMNs. ICF and PHB will be required to examine information obtained from PMNs to design projects that evaluate the use of

SAR techniques in EPA's review of PMNs. Some of this information may be claimed confidential.

Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to ICF and PHB. Any reports prepared by ICF and PHB dealing with this confidential business information will be treated as confidential. After evaluating the information obtained, ICF and PHB will return the information and any reports they prepare containing confidential business information to EPA.

Under the EPA security manual "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," ICF and PHB will be authorized to have access to this information. EPA has approved the security plans of ICF and PHB, has conducted the required inspections of their facilities, and has found them to be in compliance with the requirements of the manual.

Since ICF and PHB will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of information under section 5 of TSCA that this contractor and subcontractor will have access to confidential business information from EPA.

In accordance with the contractor requirements security manual, ICF and PHB personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to such information.

Dated: March 22, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

(FR Doc. 83-8197 Filed 3-29-83; 8:45 am)

BILLING CODE 6560-50-M

[A-9-FRL 2333-4]

Issuance of a PSD Permit to Northern California Power Agency (NCPA)**AGENCY:** Environmental Protection Agency (EPA), Region 9.**ACTION:** Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Northern California Power Agency (NCPA) in Sonoma County, California, EPA project number SFB 82-05.

DATE: A petition for review must be filed by May 31, 1983.

ADDRESS: Copies of the permit are available for public inspection upon request, address request to: Roccena Lawatch, U.S. Environmental Protection

Agency, Region 9, 215 Fremont St., San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Roccena Lawatch, (415) 974-7411.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on February 9, 1983 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a 110 MW geothermal power plant consisting of two (2) 55 MW turbines in Sonoma County.

This permit has been issued under EPA's PSD (40 CFR 52.21) regulations and is subject to certain conditions including allowable emission rates as follows: H₂S at 4.4 lbs/hr/ turbine, H₂S at 5.0 lbs/10⁶ pounds of steam.

Best Available Control Technology (BACT) requirements include: (1) The allowable emission rate; (2) the Stretford Process for treatment of non-condensable gases; (3) Hydrogen Peroxide-Iron catalyst treatment for condensate; (4) control of stacking emissions through an agreement with the steam supplier, enforceable by EPA. Air Quality Impact modeling was not required for H₂S. Continuous monitoring is not required and the source is not subject to New Source Performance Standards.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals.

Dated: March 4, 1983.

David P. Howekamp,

Director, Air Management Division, Region 9.

(FR Doc. 83-8196 Filed 3-29-83; 8:45 am)

BILLING CODE 6560-50-M

[A-4-FRL 2335-7]

PSD Permit for Transgulf Pipeline Co.; Final Decision**AGENCY:** Environmental Protection Agency.**ACTION:** Notice.

SUMMARY: Notice is hereby given that a Prevention of Significant Deterioration (PSD) permit issued on August 18, 1981, and modified on October 21, 1981, by EPA Region IV to Transgulf Pipeline Company became effective on February 14, 1983. The permit was issued for the construction of a petroleum products storage facility to be located in Kissimmee, Florida.

DATES: This action is effective as of February 14, 1983, the effective date of the PSD permit. Construction must begin within 18 months of this date or the permit will become invalid.

ADDRESSES: Copies of the permit, and the remand and order denying the petitions for review are available for public inspection or upon request at the following locations:

Environmental Protection Agency,
Region IV, Air Management Branch,
345 Courtland Street, NE., Atlanta,
Georgia 30365; or

State of Florida, Department of
Environmental Regulation, Twin
Towers Office Building, 2600 Blair
Stone Road, Tallahassee, Florida,
32301.

FOR FURTHER INFORMATION CONTACT:
Wayne J. Aronson of the EPA Region IV
Air Management Branch at the Atlanta
address given above, telephone 404/881-
7654 (FTS: 257-7654).

SUPPLEMENTARY INFORMATION: On
September 21, 1981, Transgulf Pipeline
Company petitioned the EPA
Administrator (pursuant to 40 CFR
124.19(a)) to review the Prevention of
Significant Deterioration (PSD) permit
(Permit No. PSD-FL-013) issued by EPA
Region IV's Regional Administrator on
August 18, 1981, with respect to the
Company's proposed construction of a
petroleum products storage facility to be
located in Kissimmee, Florida. In
addition, Sonat Marine, Inc., on
December 11, 1981, filed a separate
petition for review.

While Transgulf Pipeline Company's
petition for review was pending before
the Administrator, EPA Region IV's
Acting Director for Enforcement wrote a
letter dated October 21, 1981, to
Transgulf Pipeline Company revising
Condition 13 of the permit as requested
by the Company. This modification
effectively disposed of the concerns
which caused Transgulf Pipeline
Company to file its petition for review.

After having reviewed the petition by
Sonat Marine, Inc., and all necessary
background information, the EPA
Administrator determined that this
petition failed to show that the permit
determination was either clearly
erroneous or involved issues which
should have been reviewed as a matter
of discretion. See 40 CFR 124.19(a) (1)
and (2).

Accordingly, on October 4, 1982, the
EPA Administrator issued a remand and
order denying the petitions for review.
The remand required EPA Region IV to
notify each party who had submitted
written comments and had not been
previously notified of the October 21,
1981, permit modification, and allow
them an opportunity to petition for
review. Central Florida Pipeline, the
only party not previously notified was
notified of this modification on
December 6, 1982. Central Florida

Pipeline did not petition the
Administrator for review under 40 CFR
124.19 during the 30-day comment
period.

As a result of this denial, the final
permit decision as issued on August 18,
1981, and modified on October 21, 1981,
was not changed. The effective date of
the permit is February 14, 1983, which
also constitutes final agency action
under 40 CFR 124.19(f)(1) and Section
307 of the Clean Air Act, for purposes of
judicial review. Under Section 307(b)(1)
of the Act, petitions for judicial review
of this action must be filed in the United
States Court of Appeals for the
appropriate circuit by May 31, 1983. This
action may not be challenged later in
proceedings to enforce its requirements.
(See 307(b)(2).) If construction does not
commence within 18 months after this
effective date, or if construction is
discontinued for a period of 18 months
or more, or if construction is not
completed within a reasonable time, the
permit shall expire and authorization to
construct shall become invalid.

Dated: March 17, 1983.
Charles R. Jeter,
Regional Administrator.
[FR Doc. 83-8195 Filed 3-29-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP-50592; PH-FRL 2334-4]

Pesticides; Issuance of Experimental Use Permits

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted
experimental use permits to the
following applicants. These permits are
in accordance with, and subject to, the
provisions of 40 CFR Part 172, which
defines EPA procedures with respect to
the use of pesticides for experimental
purposes.

FOR FURTHER INFORMATION CONTACT:
The product manager cited in each
experimental use permit at the address
below: Registration Division (TS-767C),
Office of Pesticide Programs,
Environmental Protection Agency, 1921
Jefferson Davis Highway, Arlington, VA
22202.

SUPPLEMENTARY INFORMATION: EPA has
issued the following experimental use
permits:

275-EUP-23. Extension. Abbott
Laboratories, 14th and Sheridan Road,
North Chicago, IL 60064. This
experimental use permit allows the use
of 2,000 BTUs per milligram of the
biological insecticide *Bacillus*
thuringiensis, serotype H-14 on

estuarine areas, intermittently flooded
pastures, irrigation ditches, natural
marshes, rice paddies, roadside ditches,
and sewage lagoons to evaluate the
control of blackfly and mosquito larvae.
A total of 1,850 acres are involved; the
program is authorized in the States of
Alabama, Arkansas, California,
Delaware, Florida, Georgia, Idaho,
Illinois, Indiana, Kentucky, Maine,
Maryland, Massachusetts, Michigan,
Mississippi, Missouri, New Hampshire,
New Jersey, New York, Ohio, Oregon,
Pennsylvania, Tennessee, Texas, Utah,
Virginia, and Washington. The
experimental use permit is effective
from April 4, 1983 to April 4, 1984.
(Franklin Gee, PM 17, Rm. 207, CM#2,
[703-557-2690].)

275-EUP-31. Extension. Abbott
Laboratories, 14th and Sheridan Road,
North Chicago, IL 60064. This
experimental use permit allows the use
of 11,200 BIUs of the biological
insecticide *Bacillus thuringiensis*,
Berliner on forests to evaluate the
control of gypsy moths and spruce
budworms. A total of 2,450 acres are
involved; the program is authorized in
the States of Alabama, Arizona,
Arkansas, California, Connecticut,
Delaware, Florida, Georgia, Indiana,
Louisiana, Maine, Maryland,
Massachusetts, Michigan, Mississippi,
Missouri, New Hampshire, New Jersey,
New York, North Carolina, Ohio,
Oregon, Pennsylvania, South Carolina,
Tennessee, Texas, Vermont, and
Wisconsin. The experimental use permit
is effective from May 1, 1983 to May 1,
1984. A permanent exemption from the
requirement of a tolerance for residues
of the active ingredient in or on all
growing crops has been established (40
CFR 180.1011). (Franklin Gee, PM 17,
Rm. 207, CM#2, [703-557-2690].)

100-EUP-75. Issuance. Ciba-Geigy
Corporation, P.O. Box 11422,
Greensboro, NC 27409. This
experimental use permit allows the use
of 2,600 pounds of the herbicide
metolachlor on peanuts to evaluate the
control of weeds. A total of 1,400 acres
are involved; the program is authorized
only in the States of Alabama, Florida,
Georgia, North Carolina, Oklahoma,
South Carolina, Texas, and Virginia. The
experimental use permit is effective
from February 28, 1983 to December 31,
1983. Permanent tolerances for residues
of the active ingredient in or on peanuts
(forage, hay, and hulls) have been
established (40 CFR 180.368). (Richard
Mountfort, PM 23, Rm. 253, CM#2, [703-
557-1830].)

35977-EUP-2. Issuance. MAAG
Agrochemicals Research and
Development, 5699 North King's

Highway, P.O. Box X, Vero Beach, FL 32960. This experimental use permit allows the use of 75 pounds of the insect growth regulator ethyl[2-(p-phenoxyphenoxy)ethyl] carbamate on non-crop areas to evaluate the control of fire ants. A total of 5,000 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and Texas. The experimental use permit is effective from March 1, 1983 to March 1, 1984. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690).)

3125-EUP-173. Extension. Mobay Chemical Corporation, P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. This experimental use permit allows the use of 2,160 pounds of the nematicide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate as a soil application in grape culture to evaluate the control of nematodes. A total of 100 acres are involved. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703-557-1900).)

3125-EUP-174. Extension. Mobay Chemical Corporation, P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. This experimental use permit allows the use of 4,680 pounds of the nematicide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate as a soil application in grape culture to evaluate the control of nematodes. A total of 50 acres are involved; this program and the one above are authorized only in the States of California, Michigan, New York, Ohio, Pennsylvania, and Washington. The permits are effective from February 18, 1983 to December 31, 1983. A temporary tolerance for residues of the active ingredient in or on grapes has been established. A food additive regulation for residues of the active ingredient in or on raisins has been established (21 CFR 193.463). A feed additive regulation for residues of the active ingredient in or on grape pomace and raisin waste has been established (21 CFR 561.232). The permits will use the same active ingredient but different formulations. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703-557-1900).)

3125-EUP-180. Extension. Mobay Chemical Corporation, P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. This experimental use permit allows the use of 156 pounds of the insect growth regulator 2-chloro-N-[[4-(trifluoromethoxy)phenyl]amino]carbonyl]benzamide on cotton to evaluate the control of the boll weevil. A total of 500 acres are involved; the program is authorized only in the State of Arkansas. The experimental use permit is effective from May 1, 1983 to May 1, 1984. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690).)

524-EUP-56. Extension. Monsanto Company, 1101 17th St. NW., Washington, DC 20036. This experimental use permit allows the use of 25,161.5 pounds of the herbicide acetochlor on corn, grain sorghum, peanuts, and soybeans to evaluate the control of weeds. A total of 12,877.7 acres are involved; the program is authorized in the States of Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin. Temporary tolerances for residues of the active ingredient in or on corn grain and soybean grain have been established; however, this permit is issued with the limitation that the fodder, forage, and straw of grain sorghum and peanuts and the fodder and forage of corn and soybeans are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800).)

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, [7 U.S.C. 136])

Dated: March 22, 1983.

Douglas D. Camp,
 Director, Registration Division, Office of
 Pesticide Programs.

[FR Doc. 83-8190 Filed 3-29-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-248; File No. BP-801117AC, et al.]

Oceanside Radio, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: March 18, 1983; released: March 23, 1983.

In re applications of Oceanside Radio, Inc., Oceanside, California, Req: 830 kHz, 1 kW, DA-N, U, MM Docket No. 83-248, File No. BP-801117AC; Alessandro Broadcasting

Company, San Jacinto, California, Req: 830 kHz, 5 kW, 50 kW-L, DA-2, U, MM Docket No. 83-249, File No. BP-810209AL; New Radio Corporation, La Mirada, California, Req: 830 kHz, 1 kW, 50 kW-L, DA-2, U, MM Docket No. 83-250, File No. BP-810209AP; Western Radio Group, San Marcos, California, Req: 830 kHz, 1 kW, DA-N, U, MM Docket No. 83-251, File No. BP-810209AE; International Institute of Los Angeles, Los Angeles, California, Req: 830 kHz, 1 kW, 5 kW-L, DA-2, U, MM Docket No. 83-252, File No. BP-810209AF; Dolph-Petty Broadcasting Company, KUDE, Oceanside, California, Has: 1320 kHz, 500 W, DA-1, U, Req: 830 kHz, 1 kW, 2.5 kW-L, DA-N, U, MM Docket No. 83-253, File No. BP-810209AH; Orange County Broadcasting Corporation, Orange, California, Req: 830 kHz, 1 kW, 2.5 kW, DA-N, U, MM Docket No. 83-254, File No. BP-810209AK; Pro Broadcasters, La Mesa, California, Req: 830 kHz, 2.5 kW, 10 kW-L, DA-N, U, MM Docket No. 83-255, File No. BP-810209AM; Santee Broadcasting Company, Inc. of Indiana, Santee, California, Req: 830 kHz, 1 kW, 2.5 kW-L, DA-N, U, MM Docket No. 83-256, File No. BP-810209AN for construction permit.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (a) The above-captioned mutually exclusive applications for new stations and for changes in the facilities of an AM broadcast station; (b) an informal objection and a petition to deny the Oceanside Radio, Inc., application, filed by Walter E. Raabe and National Public Radio, respectively; (c) an informal objection against the Alessandro Broadcasting Company application filed by Stephen M. Cilurzo; (d) a petition to deny the Santee Broadcasting Company, Inc., of Indiana proposal filed by KMJC, Inc.;¹ and (e) relevant pleadings.

¹The record of these proceedings also includes the following: (a) Petitions to deny each of the above-captioned applications, filed by Midwest Radio-Television, Inc. (Midwest) licensee of station WCCO, the dominant Class 1-A station operating on 830 kHz at Minneapolis, Minnesota. Midwest asserted that the applications failed to recognize its pending application (BP-19151) to install a Franklin Antenna (Docket No. 19403). By letter, dated April 8, 1981, the Chief, AM Branch, Broadcast Facilities Division, advised the applicants that the Commission's AM data base did not include the Midwest Franklin Antenna proposal for station WCCO, and an additional thirty day period was allowed to permit the applicants to review their proposals and to submit amendments if necessary. Subsequently, Midwest withdrew its petitions to deny; (b) International Institute of Los Angeles (International) filed petitions to specify issues against the applications of Alessandro Broadcasting Company, New Radio Corporation, Western Radio Group, Orange County Broadcasting, Pro Broadcasters, and Santee Broadcasting Company. Since pre-designation issue pleadings between competing applicants for broadcast facilities were abolished by the Commission (see *Processing of Contested Broadcast Applications*, 72 F.C.C. 2d 202, 1979) the Chief, Broadcast Facilities Division,

2. *Oceanside Radio, Inc.* National Public Radio (NPR) filed a petition to deny the Oceanside application. The petition was not supported by affidavit as required by Section 309(d)(1) of the Communications Act of 1934, as amended, and is therefore defective.² Accordingly, the issues raised by NPR will be considered as an informal objection pursuant to § 73.3587 of the Rules. NPR asserts that the Oceanside application is unacceptable for filing because it fails to meet any of the acceptance criteria of § 73.37(e)(2) of the Rules. According to NPR, subsections (i), (ii) and (iii) require a showing that new service would be provided to an area or population previously unserved, and Oceanside makes no such showing. Further, NPR asserts subsection (iv) requires that the applicant be at least 51% controlled by minority group members, and subsection (v) requires the applicant to operate a noncommercial station, but Oceanside makes no showing that it is controlled by minority group members, and it proposes a commercial operation. Thus NPR concludes the Oceanside application is unacceptable for filing, and it objects to a waiver of the rules. NPR is concerned that use of the frequency at Oceanside, California will preclude its use at Los Angeles, where, in NPR's view, there is a critical need for more public radio service.

3. Subparagraphs (i), (ii), (iii), (iv) and (v) to § 73.37(e)(2) of the Commission's Rules are disjunctive and applicants need only meet the requirements of one subparagraph to be acceptable for filing. There are currently one AM station and one FM station (KJFM (FM) and KUDE) licensed to Oceanside, California. These stations are commonly owned by Dolphin-Petty Broadcasting Company. Note 7 to § 73.37 of the Rules provides that commonly owned AM and FM stations authorized to the same community will be considered a single aural service to that community. Oceanside's proposal will provide its community with a second nighttime broadcast service and no FM channel is available for use in the license community. Thus, it is acceptable for filing under § 73.37(e)(2)(ii). NPR's concern that the frequency will not be assigned to the community with the most critical need is

unfounded. The Commission is mandated by section 307(b) of the Communications Act to provide a fair, efficient and equitable distribution of radio services to the states and communities. The applicants will be permitted to introduce evidence as to which proposal will best carry out the requirements of section 307(b). We will deny the NPR objection.

4. Walter E. Raabe has filed an informal objection against the Oceanside application. Mr. Raabe alleges it is not in the public interest to "allocate" a third commercial facility to a community of 77,000 population when an area 50 miles to the north with a population of 200,000 has no commercial radio outlets. Mr. Raabe asserts the 90-day cut-off period established for this application had a "built-in discrimination factor." The application, according to Mr. Raabe, does not meet the "first full time aural service" requirement set out in Docket No. 20642 (*Clear Channel AM Broadcasting*, 78 FCC 2d 1345 (1980)) nor does it meet the "minority ownership requirement." In addition, Mr. Raabe asserts, the applicant has several other applications pending and the operation of the facility will not receive as much attention as it would from an owner who has no other stations. Initially, we note that the Commission does not have a table of assignments for frequencies in the AM band as it does in the FM and TV band; rather, applicants designate the community that they intend to serve, and if the proposals meet the technical requirements of the Commission's Rules, and the applicants are otherwise qualified an application will be granted. The 90-day cut-off period applies to every applicant and potential applicant and is therefore nondiscriminatory. The Oceanside application will furnish the second authorized nighttime aural transmission service to Oceanside, California, and is therefore acceptable for filing under § 73.37(e)(2)(ii) of the Rules. The applicant need not be controlled by minority group members. See paragraph three (3) above. Applicants are not prohibited by the rules from filing applications for more than one broadcast facility. The integration of the principals of Oceanside into the day-to-day operation of the proposed station will undoubtedly be considered during the comparative part of the hearing. Mr. Raabe's objection will be denied.

5. Oceanside filed petitions for leave to amend on November 20, 1981, December 4, 1981, and January 13, 1983. In its November 20, 1981, petition, Oceanside reports that John H. Gayer

has resigned as president and director of High County Television, Inc., applicant for a new television station at Glenwood Springs, Colorado, and has converted his 35% voting stock to nonvoting stock. Mr. Gayer has a 34% interest in Oceanside and is president and director. The December 4, 1981, petition reported the withdrawal of David Martinez and the redistribution of his 15% ownership interest. Mr. Martinez was vice president, director and proposed fulltime general manager; his 15% interest has been distributed 5% to Alicia Bedwell, whose interest will increase from 12.5% to 17.5%, and 10% to Elvira Lopez, whose interest will increase from 8.5% to 18.5%. Oceanside states that Mr. Martinez is a shareholder of Quetzal Bilingual Communications, Inc., (Bilingual) an applicant for a new station to be located at San Diego, California; its service area will overlap with Oceanside's proposed service area. Oceanside asserts that Mr. Martinez concealed his interest in Bilingual and it was not discovered by the other stockholders until shortly before the time of his sudden withdrawal which was made without the consent of the other stockholders. This situation, Oceanside asserts, is analogous to that of an applicant that has had a stockholder die. Oceanside disclaims any comparative advantage due to the increased ownership interest of two of its stockholders which might result in an improvement over the previous fulltime integration of Mr. Martinez. It requests however that its comparative position not be diminished. The January 13, 1983, Petition reports changes in stockholders' broadcast interests.

6. Santee Broadcasting Company, Inc. (Santee), and Orange County Broadcasting Corporation (Orange) filed comments to the November 20th amendment; Orange and Pro Broadcasters filed comments to the December 4th amendment. The comments are similar and will be considered together. Santee and Orange do not object to acceptance of the November amendment, but request that it be accompanied by a ruling that Oceanside cannot claim a comparative benefit or avoid a comparative detriment because of the information submitted. In its comments to the December amendment, Orange objects to the Oceanside request that its comparative position not be diminished as a result of the amendment. Orange asserts that circumstances surrounding the withdrawal of Mr. Martinez and its effect on the qualifications of the applicant warrant further inquiry which could be foreclosed if Oceanside's

dismissed the petitions by letter, dated October 27, 1981; (c) In response to the petitions and the letter from the Chief, AM Branch, the applicants filed various motions for extension of time and for acceptance of late filed documents, as well as opposition and reply pleadings. These pleadings are now moot.

² We do not reach the question of whether or not National Public Radio is a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended.

requests were granted. Pro Broadcasters does not object to acceptance of the December amendment but points out that the officers and managers and their hours of participation and responsibilities with regard to station operation has been altered³ by the amendment; it requests that acceptance be specifically conditioned so that Oceanside will not gain a comparative advantage as the result of it.

7. The amendments were filed pursuant to § 1.65 of the Commission's Rules, which makes applicants responsible for the continuing accuracy of the information contained in their applications. Since both amendments were required because of voluntary actions on the part of Oceanside's stockholders, no comparative advantage can be gained as a result of them. Oceanside's request that its comparative position not be diminished will be denied since the other parties must be permitted to argue that the proposal has been weakened by the loss of Mr. Martinez. *Radio Cicero, Inc.*, 44 RR 2d 1657 (ALJ 1979). Oceanside's petitions for leave to amend will be granted, and the amendments are accepted with the restrictions set out above.

8. Oceanside is responsible for the voluntary actions of its principals and for the accuracy of the information contained in its application. When it was discovered that Mr. Martinez had a concealed interest that was required to be reported on its application, it appears Oceanside promptly filed the information. The applicant, however, cannot avoid the fact that Mr. Martinez had a 15% ownership interest, was its vice president, director and proposed fulltime general manager; it cannot be assumed his participation in Oceanside's affairs was insignificant. Appropriate issues will be specified to determine what affect the conduct of Mr. Martinez has on the basic and comparative qualifications of Oceanside.

9. We have no evidence that Oceanside published the local notice of the filing of its application as required by § 73.3580 of the Rules. It must therefore demonstrate that it has complied with the rule within thirty days of the release of this Order.

10. The narrative environmental statement filed by Oceanside did not contain a statement as to the zoning

classification of the site as required by § 1.1311(a)(3) of the Commission's Rules. Oceanside must file the required information within thirty days of the release of this Order.

11. *Alessandro Broadcasting Company*. Stephen M. Cilurzo has filed comments concerning the Alessandro proposal; he is of the opinion that this proposal should be denied because there is "deception with regard to the minority ownership of this proposal." Mr. Cilurzo included a newspaper clipping from a local newspaper which reported one James Richards had formed a six-member corporation and had secured land in the event his "bid" to start a 50,000-watt AM radio station should be approved by the Commission. The newspaper article further reported that Mr. Richards' chances had been enhanced because he had apparently met an asserted Commission requirement that at least 50% of the station's ownership be Hispanic. Mr. Cilurzo states that Mr. Richards' name is not on the application anywhere, and he believes this is because Mr. Richards has a "non-compete" agreement with local radio stations and also his chances of Commission approval of the application will be enhanced if he is not named in the application.

12. In response to question twenty, Section II of the application (FCC Form 301). Alessandro reports that there are outstanding agreements relating to the ownership of the applicant. Exhibit three contains an agreement between the applicant and Jimco, broadcast consultants, which provides that for consulting services, having a value of \$35,000, on behalf of Alessandro, Jimco's president, James C. Richards, will receive a 15% stock interest if Alessandro is granted a construction permit. The newspaper article merely confirms that Mr. Richards is performing the services required by the contract. Mr. Cilurzo's allegation that there is deception concerning the ownership of Alessandro Broadcasting Company is without merit; his objection will be denied.

13. Alessandro proposes to operate with nighttime power of 5 kilowatts. Section 73.21(a)(2)(ii)(C) of the Rules establishes a one-kilowatt nighttime power ceiling for class II-B stations on a 1-A clear channels in already well-served areas such as San Jacinto, California. Alessandro has requested a waiver of the rule. The applicant has a heavy burden to show that the power it proposes is necessary to provide principal city service and will not impede the Commission's allocation objectives; it may meet the latter by

showing either that the higher power would not preclude other possible co-channel unlimited-time class II assignments or that the improved principal city service entailed by the higher power clearly outweighs any potential service that might be precluded. Since it cannot be determined from the record if waiver of § 73.21 is warranted, an issue will be specified.

14. Alessandro's environmental narrative statement failed to include information as to whether the proposed construction has been a source of controversy in the community as required by § 1.1311(a)(4) of the Commission's Rules. The required information must be filed within thirty days of the release of this Order.

15. Alessandro's local notice of the filing of its application failed to list the transmitter location and describe the antenna proposal as required by § 73.3580(f)(5) of the Commission's rules. The applicant must publish a corrected local notice and file the required certification to the Administrative Law Judge within thirty days of the release of this Order.

16. *New Radio Corporation*. We have no evidence that the applicant has given local notice of the filing of its application as required by § 73.3580 of the Commission's Rules. New Radio Corporation must give the required local notice, if it has not done so, and file the required certification with the Administrative Law Judge within thirty days of the release of this Order.

17. *Western Radio Group*. The material submitted in the application does not demonstrate the applicant's financial qualifications.⁴ Although the financial standards are unchanged, the application form has been changed to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate

³ Oceanside has indicated by its amendment that its principals Mary Steiger, George Lopez and Elvira Lopez will each spend 21 hours per week at the station and Alicia Bedwell will be employed fulltime. Previously, David Martinez was fulltime manager, Alicia Bedwell was to be employed fulltime, Elvira Lopez was parttime and five others were listed as parttime.

⁴ The application shows that \$189,425 will be required to construct the proposed station and operate for three months. Applicant plans to finance its proposal with a \$150,000 bank loan and \$45,000 from partner contributions. No financial statements showing availability of these funds have been submitted for the partners.

issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378, released by July 15, 1982.

18. *International Institute of Los Angeles*. This applicant's proposal fails to provide principal city residential and business district coverage of Los Angeles as required by § 73.24(j) of the Rules, and the applicant has requested a waiver. Because we cannot make a determination as to whether or not a waiver of the rule is in the public interest based on the information submitted, an appropriate issue will be specified.

19. The applicant's local notice of the filing of its application failed to list International's officers and directors and to describe the proposed antenna system as required by § 73.3580(f) (1) and (5) of the Rules. International must republish a corrected local notice and certify to the Administrative Law Judge as required within thirty days of the release of this Order.

20. International's environmental narrative statement failed to include a description of the surrounding area and information concerning the zoning classification of the site and whether construction of the facilities has been a source of controversy in the community as required by § 1.1311(a) (2), (3) and (4) of the Commission's Rules. The required information must be filed within thirty days of the release of this Order.

21. *Dolph-Petty Broadcasting Company*. Dolph-Petty's narrative environmental statement failed to include a description of the surrounding area and information concerning the zoning classification of the site and whether construction of the facilities has been a source of controversy in the community as required by § 1.1311(a) (2), (3) and (4) of the Commission's Rules. Dolph-Petty must file the required information within thirty days of the release of this Order.

22. Dolph-Petty's local notice of the filing of its application failed to list the principals as required by § 73.3580(f)(1) of the Commission's Rules. A corrected local notice must be rebroadcast and that fact certified to the Administrative Law Judge within thirty days of the release of this Order.

23. *Orange County Broadcasting Corporation*. The material submitted in the application does not demonstrate the applicant's financial qualifications.*

Although the financial standards are unchanged, the application form has been changed to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

24. Orange County's local notice of the filing of its application failed to describe the proposed antenna as required by § 73.3580(f)(5) of the Rules. The applicant must republish a corrected local notice and file the required certification with the Administrative Law Judge within thirty days of the release of this Order.

25. Orange County's environmental narrative statement failed to describe the surrounding areas of the site and failed to note whether the proposal has been a source of controversy in the community as required by § 1.1311(a) (2) and (4) of the Rules. Orange County must file the required information within thirty days of the release of this Order.

26. *Pro Broadcasters*. The material submitted in the application does not demonstrate the applicant's financial qualifications.* Although the financial standards are unchanged, the application form has been changed to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certifications, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 83-278, released July 15, 1982.

27. *Pro Broadcasters* proposes to operate with nighttime power of 2.5 kilowatts. Section 73.21(a)(2)(ii)(C) of

the Rules establishes a one-kilowatt nighttime power ceiling for Class II-B stations on 1-A clear channels in already well served areas such as La Mesa, California. The applicant has a heavy burden to show that the power it proposes is necessary to provide principal city service and will not impede the Commission's allocation objectives; it may meet the latter by showing either that the higher power would not preclude other possible co-channel unlimited-time Class II assignments or that the improved principal city service entailed by the higher power clearly outweighs any potential service that might be precluded. Since it cannot be determined from the record if waiver of § 73.21 is warranted, an issue will be specified.

28. The applicant's local notice of the filing of its application has failed to describe its antenna height as required by § 73.3580(f)(5) of the Commission's Rules. A corrected local notice must be published and certification must be made to the Administrative Law Judge within thirty days of the release of this Order.

11. *Santee Broadcasting Company Inc.*, of Indiana. KMJC, Inc., licensee of station KMJC, El Cajon, California, filed a petition to deny Santee's application alleging reradiation problems, array stability and unsuitability-of-site problems. Santee petitioned for leave to amend on September 9, 1981;⁷ it proposes to relocate its transmitter site so as to remove any doubt as to the adequacy of its technical proposal.⁸ Santee asserts it is Commission policy to permit an applicant to remove potentially disqualifying factors through amendment, and it disclaims any comparative advantage that might result from the amendment. We find that the proposed operation from the new transmitter site renders all of KMJC, Inc.'s allegations moot; therefore, we will dismiss its petition to deny. Since the amendment will remove a potentially disqualifying deficiency in Santee's technical qualifications and will prejudice no other applicant we will accept it with the restriction that the amendment cannot be used in any way to enhance the comparative position of Santee. *Azalea Corp.*, 31 F.C.C.2d 561 (1971).

⁷ Santee also filed an opposition to the petition to deny which opposed the petition on both procedural and substantive grounds.

⁸ The amendment also reports, pursuant to § 1.65 of the Rules, that Julie Cohen, 7% stockholder of Santee, is 40% stockholder of Public Service Broadcasting of West Jordan, Inc., applicant for a proposed new FM station at West Jordan, Utah.

*The application shows that \$367,500 will be required to construct the station and operate for three months. The bank letter evidencing a loan commitment of sufficient amount has not been submitted.

*The application shows that \$322,000 will be required to construct and operate the proposed station. Applicant has not submitted financial statements of its partner who will finance the proposal.

30. Santee filed a petition for leave to amend an amendment on May 27, 1981; the amendment reports a change in the employment of the applicant's president and 25% stock subscriber and is required pursuant to Section 1.85 of the Commission's Rules. We will grant the petition and accept the amendment with the same restrictions as are set in paragraph 29, above.

31. The Commission has not yet received Federal Aviation Administration clearance for the antenna towers proposed by Oceanside Radio, Inc., Dolph-Petty Broadcasting Co., Orange County Broadcasting Corp., and Santee Broadcasting Co., Inc. Appropriate issues will be specified, and the Federal Aviation Administration will be made a party to these proceedings.

32. Except as indicated by the issues specified below, all nine applicants are qualified to construct and operate as proposed.⁹ However since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although most of the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

33. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine, in light of the facts and circumstances surrounding the withdrawal of David Martinez as a principal and 15% stockholder of Oceanside Radio, Inc., whether Oceanside Radio, Inc., violated § 73.3514 of the Commission's Rules.

2. To determine, in light of the facts adduced pursuant to the foregoing issue, whether Oceanside Radio, Inc., misrepresented facts to or concealed information from the Commission.

⁹ Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

3. To determine, in light of the facts adduced pursuant to the foregoing issues, whether Oceanside Radio, Inc., possesses the basic or comparative qualifications to be a licensee of the facilities sought here.

4. To determine, with respect to Alessandro Broadcasting Co., whether circumstances exist which warrant waiver of § 73.21(a)(2)(ii)(C) of the Rules.

5. To determine, with respect to International Institute of Los Angeles, whether circumstances exist which warrant waiver of § 73.24(f) of the Rules.

6. To determine, with respect to Pro Broadcasters, whether circumstances exist which warrant a waiver of § 73.21(a)(2)(ii)(C) of the Rules.

7. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and locations proposed by Oceanside Radio, Inc., Dolph-Petty Broadcasting Co., Orange County Broadcasting Corp., and Santee Broadcasting Co., Inc.

8. To determine the areas and populations which would receive primary service for each proposal, and the availability of other primary aural services to such areas and populations.

9. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide as fair, efficient, and equitable distribution of radio service.

10. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

11. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

34. It is further ordered, That the petitions to deny filed by National Public Radio and KMJC, Inc., are denied and dismissed, respectively, and the informal objections filed by Walter E. Raabe and Stephen M. Cilurzo are denied.

35. It is further ordered, That the petitions for leave to amend filed November 20, 1981, December 4, 1981, and January 13, 1983, by Oceanside, are granted and the amendments contained therein are accepted for filing upon the conditions set forth in paragraph seven (7), above.

36. It is further ordered, That the petitions for leave to amend filed by Santee are granted, and the amendments contained therein are

accepted for filing upon the conditions set forth in paragraphs twenty-nine (29) and thirty (30), above.

37. It is further ordered, That Oceanside, Alessandro, New Radio, International Institute, Dolph-Petty, Orange County, and Pro Broadcasters comply with the local notice requirements of § 73.3580 of the Commission's Rules, as discussed in the relevant paragraphs above, and certify as to compliance with the Administrative Law Judge within thirty (30) days of the release of this Order.

38. It is further ordered, That Oceanside, Alessandro, International Institute, Dolph-Petty and Orange County comply with the environmental narrative statement requirements of § 1.1311 of the Commission's Rules, as discussed in the relevant paragraphs above, and submit the required information to the Administrative Law Judge within thirty (30) days of the date of the release of this Order.

39. It is further ordered, That Western Radio, Orange County and Pro Broadcasters, as discussed in paragraphs seventeen (17), twenty-three (23) and twenty-six (26) respectively, file the required certification of financial qualifications or advise the Administrative Law Judge, within thirty (30) days of the release of this Order, that certification cannot be made.

40. It is further ordered, That the Federal Aviation Administration is made a party to this proceeding.

41. It is further ordered, That, to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission, in triplicate, written appearances, stating an intention to appear on the dates fixed for the hearing and to present evidence on the issues specified in this order.

42. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed by the rule, and shall advise the Commission of the publication of the notices as required by § 73.3594(g) of the Rules.

Federal Communications Commission,

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[PR Doc. 83-6073 Filed 3-29-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of two meetings of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled to meet on Thursday, April 14, 1983, and Thursday, April 28, 1983. Each meeting will begin at 9:30 a.m. and will be open to the public. The meeting locations are as follows:

Thursday, April 14, 1983

AT&T,
Conference Room A (10th Floor),
1120 20th Street NW.,
Washington, D.C.

Thursday, April 28, 1983

GTE Service Corporation,
Suite 900,
1120 Connecticut Avenue NW.,
Washington, D.C.

The agenda are as follows:

- I. General Administrative Matters
- II. Discussion of Assignments
- III. Other Business
- IV. Presentation or Oral Statements
- V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659-3484) at least five days prior to the meeting date.

William J. Tricarico,
Secretary, Federal Communications
Commission.

[FR Doc. 83-8072 Filed 3-29-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1983-7]

Availability of Rulemaking Petition

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition; notice of availability.

SUMMARY: On January 3, 1983, the National Council of Farmer Cooperatives filed a Petition for Rulemaking with the Commission. The petition is available for public inspection in the Commission's Public

Records Office. Statements in support of or in opposition to the petition must be filed on or before April 29, 1983.

DATE: Comments must be received on or before April 29, 1983.

FOR FURTHER INFORMATION CONTACT:

Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463; (202) 523-4143 or (800) 424-9530.

Rulemaking Petition; Notice of Availability

On January 3, 1983, the National Council of Farmer Cooperatives (NCFC) filed a Petition for Rulemaking with the Federal Election Commission. Petitioners seek promulgation of a rule which would permit federated cooperatives to solicit the individual members of its member cooperatives for contributions to a separate segregated fund. Specifically, NCFC requests that the Commission amend its regulations to provide that the members of a local cooperative are considered to be members of any federated regional or interregional cooperative with which the local cooperative is affiliated.

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 1325 K Street, NW., Washington, D.C. 20463, between the hours of 9:00 a.m. and 5:00 p.m.

Statements in support of or in opposition to the Petition for Rulemaking must be filed with the Commission by April 29, 1983.

Dated: March 25, 1983.

Danny L. McDonald,
Chairman, Federal Election Commission.

[FR Doc. 83-8216 Filed 3-29-83; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service— Performance Review Board Updated Membership

In accordance with Title IV of the Civil Service Reform Act of 1978, the Federal Home Loan Bank Board hereby gives notice of new memberships on the SES Performance Review Board. Current members are Richard L. Petrocci (Chairman), Leland Brendsel, Austin Dowling, Patrick Doyle, Bowers W. Espy, and Robert J. Moore.

For Further Information Contact: Doris H. McGhee, Director of Personnel.

Federal Home Loan Bank Board (202) 377-6050.

J. J. Finn,

Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 83-8146 Filed 3-29-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Commodore Cruise Line, Limited and Olympia Caribbean Shipping Co., Inc., 1007 North America Way, Miami, Florida 33132.

Dated: March 25, 1983.

Francis C. Hurney,
Secretary.

[FR Doc. 83-8161 Filed 3-29-83; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Special Expeditions, Inc. and Lindblad Travel, Inc., c/o Special Expeditions, Inc., 133 East 55th Street, New York, New York 10022. This Certificate expires March 31, 1984.

Dated: March 25, 1983.

Francis C. Hurney,
Secretary.

[FR Doc. 83-8160 Filed 3-29-83; 8:45 am]

BILLING CODE 6730-01-M

Special Permission To Refer to Tariff Matter Containing Management-ILA Rules on Containers in Carrier and Conference Tariff Publications on Less Than Thirty Days' Notice

March 25, 1983.

On March 17, 1983, World Transportation Services, Inc. as agents for various named common carriers filed a governing rules tariff entitled "Management-ILA Rules on Containers," FMC-1, ICC WOR 600, FMC-F-1 with a proposed effective date of April 18, 1983. On March 18, 1983, a similar tariff was placed on file by Trans World Tariff & Research Service, Inc. as agent for various other carriers. This governing rules tariff is also entitled "Management-ILA Rules on Containers," FMC-1, ICC TWTU 600, FMC-F-1 and is proposed to be effective April 18, 1983.

Both of these publications have provided the statutory notice required by section 18(b)(2) of the Shipping Act, 1916, (46 U.S.C. 817) and section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844), on behalf of each tariff's listed participants.

The Commission's rules on the filing of governing tariffs, 46 CFR 536.13 and 46 CFR 531.14, require a reference in each tariff to the governing tariff. The required references contain new or initial matter requiring statutory notice of 30 days before their effectiveness. Since the Management-ILA Rules on Containers apply to virtually every foreign or domestic waterborne commerce tariff involving services on the North Atlantic, South Atlantic and Gulf Coasts, the number of affected tariffs is large. The logistics of placing the appropriate referencing amendments in each of these tariffs on 30 days' notice prior to April 18, 1983, is considerable. Anticipating these difficulties, two carriers have requested relief from the notice requirements for the purpose of placing the cross references on file without the otherwise required notice to implement the rules on April 18, 1983. The authority for this waiver is contained in section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844) and section 18(b)(2) of the Shipping Act, 1916, (46 U.S.C. 817(b)). These provisions authorize the Commission in its discretion and for good cause to allow matter to become effective on reduced notice.

Recognizing the problems associated with amending a large number of tariffs by April 18, 1983, and in view of the fact that the governing tariff was filed on 30 days' notice and this action is only the

technical necessity of cross referencing individual tariffs to the Rules tariff, the Commission is hereby waiving the statutory notice requirements for this particular new or initial matter, for any carrier listed in either of the two aforementioned governing rules tariffs, thereby allowing the referencing tariff matter to be filed on or before April 18, 1983.

This action *does not* estop the Commission from taking whatever other action may be appropriate with reference to these tariff filings. The Commission is only waiving the statutory notice provisions and its technical tariff filing requirements (General Orders No. 13 and 38, 46 CFR 536.15 and 531.18, respectively) to avoid unnecessary administrative burdens upon the filing carriers and the Commission staff. No position on the lawfulness of these rules is to be implied from this waiver.

Furthermore, recognizing the necessity that conference tariffs also contain these references, the conferences are hereby authorized to publish references to their member lines Governing Rules tariffs for this purpose.

By Order of the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-8194 Filed 3-29-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0443]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: 1983 Fee Schedule for the Book-Entry Securities Service.

SUMMARY: The Board has approved a new fee structure and prices for the Federal Reserve's book-entry securities service.

EFFECTIVE DATE: April 28, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Bennett, Assistant Director (202/452-2738) or Gerald D. Manypenny, Manager (202/452-3954), Division of Federal Reserve Bank Operations; or Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In

accordance with the provisions of the Monetary Control Act of 1980 (Title I of Pub. L. 96-221) (MCA), the Board adopted a fee schedule for the Federal Reserve's book-entry securities service on July 17, 1981. 46 FR 37972 (July 23, 1981). This fee schedule was designed to fully recover the costs of providing the service, including a private sector adjustment factor (PSAF) of 16 percent.

On December 23, 1982, the Board requested comment on proposed revisions to the book-entry securities service fee schedule to more accurately reflect the costs of the service. 47 FR 58363 (December 30, 1982). The proposed schedule generally provided for increases in fees and the addition of a per issue account maintenance fee.

There were 62 responses to the Board's request for comment: 55 commercial banks, six Federal Reserve Banks, and one bank holding company. Eleven of the commenters expressed support for the proposed revisions, while the remaining commenters expressed concern with one or more aspects of the proposal. Concerns with the proposed revisions generally fell into four broad categories: (1) The magnitude of fee increases and the timing of fee changes; (2) whether the proposed fee structure fairly represented the costs of providing the service and the benefits of the service to users; (3) the apportionment of the costs of the Federal Reserve's book-entry system between the Federal Government and the private sector; and (4) the Federal Reserve's incentive to minimize the cost of providing book-entry services.

Approximately 64 percent of the commenters expressed concern in a variety of ways about the magnitude and timing of fee increases. Concern was expressed that the size of fee increases would make it difficult to pass the additional charges back to their customers and that increased fees may reduce Federal Reserve volume, thus necessitating future fee increases. Some commenters were also concerned that the increased fees might make Government securities less attractive and that the timing for implementing fee changes was inconvenient. A number of commenters suggested that the Federal Reserve utilize a portion of its net earnings returned to the Department of the Treasury to offset the costs of the services.

An increase in fees for this service is necessary to provide sufficient revenue to recover costs of providing the service, including PSFA, in accordance with the MCA. The System has incurred a

shortfall in 1982 of approximately \$6.5 million. This result is due, in large part, to a greater than expected shift from relatively more expensive off-line transfers to less expensive on-line transfers. Additionally, costs allocated to the book-entry securities service increased more than was anticipated. It is believed, however, that most of the transition to on-line facilities has occurred and that the rate of growth in costs for this service has stabilized. Based on these factors and on projections of modest growth in the use of certain components, the price increases represent only the amount necessary to recover fully the costs of this service, including PSAF, through 1983. Although commenters questioned the timing of the increases, the magnitude of the current shortfall makes adoption of the price increases appropriate at this time.

Approximately 62 percent of the commenters raised a variety of issues concerning whether the revised fee schedule accurately represented the costs of providing the book-entry service and the benefits of the service to users. Concern was expressed about the scope of services provided in account maintenance, the equity and application of "time of day" pricing, the cost of reserve requirements, the rationale for off-line pricing, volume pricing, and provisions for pricing issues of securities already in investor accounts.

The revised fee structure differs from the current structure only by the addition of a per issue fee to a basic account maintenance charge. The basic account maintenance charge covers generally the expenses of maintaining a system, such as the lease/amortization and the operation and maintenance of hardware, equipment, software, and communication lines. Most of these costs would be incurred regardless of whether there was any account activity. Consequently, a basic charge is regarded as reasonable. The per issue charge reflects the fact that the costs of maintaining a book-entry account are directly related to the number of issues held in that account; accounts with a large number of issues are more costly to maintain than are accounts with only a few issues. The account maintenance charges therefore reflect the costs of account maintenance and the benefits of the service to users. Further, the System is considering a number of enhancements to the account maintenance component, such as portfolio analysis, respondent bank information, and expanded sub-accounting.

"Time of day" pricing was initiated to insure that the Federal Reserve Bank of New York would have sufficient system capacity to provide adequate book-entry service at any time of the day. New York currently processes 70 percent of the System's book-entry transfer volume. "Time of day" pricing was adopted to provide incentives to shift some transfers away from afternoon peak periods, thus avoiding difficulties related to operational capacity constraints. At present, no other Federal Reserve Banks have indicated that they are experiencing heavy demands on existing transfers capacity. Any office experiencing excessive demands on system capacity at a particular time could consider initiating "time of day" pricing. In response to the comment that institutions were unfairly penalized when system failures resulted in transfers being delayed into a more expensive time period, it has been determined that if a message can be verified as having been received in an earlier time period, the institution is charged the lower price.

Some commenters suggested that the fee for off-line transfers was disproportionately high to discourage use. The higher fee for these transactions, however, relates directly to their higher costs, and fees do not exceed estimated costs. Concern was also expressed about applying the revised fee schedule to existing accounts. In view of the fact that the high cost and difficulty of segregating new and old issues for accounting and billing purposes would be disproportionate to any benefits depository institutions might receive, "grandfathering" existing accounts would not be practical.

Several commenters suggested that high volume users of the book-entry system be provided discounts. The fee structure provides a substantially lower price to those users with sufficient volume to justify being on-line, given the lower cost of providing on-line services. Also, the existence of an account maintenance fee that is the same for all users implies that the total cost per transaction for high-volume users is less than that for low-volume users. Moreover, within the on-line service, the same per-transfer cost is associated with a single transfer regardless of the number sent. Therefore, a "volume discount" would not be appropriate.

It was also suggested that the cost of providing the service be absorbed in part by the Federal Reserve to offset the lost return to depository institutions maintaining required reserve balances. The book-entry fee schedule has been

designed to recover the full cost of providing this service, including PSAF, in accordance with established Board policy. Reducing the costs for depository institution maintaining reserves would be inconsistent with the MCA. Further, the Board has previously determined that member banks phasing into the lower MCA reserve requirements had already received significant benefits from the lower reserve requirements of the MCA and the delay in pricing to offset their relative disadvantage.

Approximately 20 percent of the commenters expressed the concern that the private sector was being required to bear the entire cost of the book-entry system although the system benefits the Federal Government in administering the public debt and supporting secondary market operations. The Treasury's share of the costs of operating book-entry services, including all costs associated with original issue, interest payment, and redemption, is not included in the calculation of the fees charged depository institutions. The distribution of costs of providing this service is currently being reviewed, as it has been several times during the last 15 years, to ensure that the banking sector and the Treasury are fairly sharing the costs of operating the book-entry system. At this time, the priced portion of the service has been determined to be fairly apportioned to the private sector and the fee schedule is designed for full recovery of the costs associated with the service.

Approximately 36 percent of the commenters expressed concern that there is no incentive for the Federal Reserve to minimize the costs of providing the book-entry service since the alternatives to the Federal Reserve's service are limited. There are, however, several alternatives to the Federal Reserve's service that are available to depository institutions as well as individuals. For Treasury bills, if an institution does not plan to trade in the secondary market, or trades infrequently, the institution has the alternative of maintaining an investor account with the Treasury Department and avoid any account maintenance fees. Alternatively, anyone, including active traders, has the option of maintaining an account with a correspondent to take advantage of lower fees that could result from the consolidation of accounts and issues. A third alternative for investors holding Treasury notes and bonds is to maintain securities in definitive form.

With respect to the concern that there is no incentive for the Federal Reserve to contain costs, the Federal Reserve

believes that, as in all areas of Federal Reserve activities, there are sufficient safeguards for controlling costs. The oversight function of the Board through both the budgetary process and operational reviews encourages Federal Reserve Banks to seek actively to contain costs. Further, the Reserve Banks are studying several System-wide cost reduction initiatives, including the consolidation of book-entry transfer and securities safekeeping facilities to eliminate marginally utilized facilities. Finally, the General Accounting Office has authority to audit the pricing of the book-entry securities service, including the associated costs.

After review of the comments received and analysis of issues raised, the Board has determined to adopt the following fee schedule for the book-entry securities service, effective April 28, 1983.

Component		
One-Line Transfer Originated ¹	Per Transfer	\$3.00
Off-Line Transfer Originated	Per Transfer	10.00
Off-Line Transfer Received	Per Transfer	10.00
Account Maintenance	Per Account/ Per Month	15
Issues in Accounts Maintained	Per Issue/ Per Month	50

¹For all Federal Reserve Districts except New York. The fee schedule for on-line transfers originated through the Federal Reserve Bank of New York is: Per Transfer—9:00 a.m.-12:00 Noon, \$1.00; 12:01 p.m.-2:00 p.m., 3.00; 2:01 p.m.-Closing, 5.00.

By order of the Board of Governors of the Federal Reserve System, March 24, 1983.

William W. Wiles,
Secretary of the Board.

(FR Doc. 83-6096 Filed 3-29-83; 8:45 am)

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Michigan Bancorp., Inc.

Correction

In FR Doc. 83-7327, beginning on page 11988 in the issue of Tuesday, March 22, 1983, on page 11989, in the first column, under the heading "C. Federal Reserve Bank of Chicago", entry number 1 which now reads "1. Michigan Bancorp, Inc., should read "1. Michiana Bancorp, Inc.,"

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

"Tar", Nicotine and Carbon Monoxide Content of the Smoke of 208 Varieties of Cigarettes

AGENCY: Federal Trade Commission.

ACTION: Publication of "Tar", Nicotine and Carbon Monoxide Content of the Smoke of 208 Varieties of Cigarettes.

SUMMARY: The Federal Trade Commission publishes the "tar", nicotine, and carbon monoxide content of domestic cigarettes.

FOR FURTHER INFORMATION CONTACT: Judith P. Wilkenfeld, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202-724-1499) or Harold C. Pillsbury, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202-523-3559).

SUPPLEMENTARY INFORMATION: The Federal Trade Commission's Laboratory has determined the "tar" (dry particulate matter), total alkaloid (reported as nicotine) and carbon monoxide content of 208 varieties of cigarettes. The Laboratory utilized the Cambridge filter method with the following specifications as set forth in the Commission's announcement of July 31, 1967 (31 FR 11178) and July 10, 1980 (45 FR 26483).

1. Smoke cigarettes to a 23 mm. butt length, or to the length of the filter and overwrap plus 3 mm. if in excess of 23 mm.

2. Base results on a test of approximately 90 cigarettes per brand, or type.

3. Cigarettes to be tested will be selected on a random basis, as opposed to "weight selection".

4. Determine particulate matter on a "dry" basis employing the gas chromatography method published by C. H. Sloan and B. J. Sublett in *Tobacco Science* 9, page 70, 1965, as modified by F. J. Schultz and A. W. Spears' report published in *Tobacco*, Vol. 162, No. 24, page 32, date June 17, 1966, to determine the moisture content.

5. Determine and report the "tar" content after subtracting moisture and alkaloids (as nicotine) from particulate matter.

6. Carbon Monoxide is determined by non-dispersal infrared spectrophotometer.

Concerning the 208 varieties tested, 15 were capable of being smoked to 23 mm. The butt length of the other 193 varieties tested ranged from 24.3 mm. to an average of between 40.3 to 44.0 mm. The butt length of 169 of the 208 varieties tested exceeded 30 mm.

The samples used were obtained by attempting to purchase two packages of each variety of cigarettes as distributed by domestic cigarette manufacturers during December 1981 through February 1982 in each of 50 geographic locations throughout the country. Not all varieties of cigarettes were available in each of the 50 geographic locations and in these instances, one or more additional packages of cigarettes were purchased in those geographic locations where respective varieties were available. The samples utilized in the tests were representative of the 208 varieties of cigarettes as available throughout the country at the time of purchase.

The "tar" and carbon monoxide figures have been rounded to the nearest milligram (0.5 milligrams and greater rounded up, 0.4 milligrams and less rounded down) and the nicotine figures have been rounded to the nearest tenth of a milligram (0.05 milligrams and greater rounded up, 0.04 milligrams and less rounded down).

It should be noted that cigarette brands with assay results for "tar" and carbon monoxide below 0.5 mg. per cigarette and for nicotine below 0.05 mg. per cigarette are recorded in the accompanying tables as <0.5 mg. "tar", <0.05 mg. nicotine and <0.5 mg carbon monoxide. The tables do not differentiate between these cigarettes because the current, approved testing methodology is not sensitive enough to differentiate between cigarettes at these levels.

The various test results for all brands of Barclay cigarettes have been reported with an asterisk(*) in the tables within this Report as they were in the Report of December 1981, because a controversy continues to exist as to whether the FTC testing methodology understates the "tar", nicotine and carbon monoxide delivery of Barclay cigarettes. On June 25, 1982, following an investigation, the Commission determined that its current cigarette testing methodology does not measure accurately the "tar", nicotine

and CO delivery of Barclay cigarettes. The Commission's decision is currently the subject of a pending court suit filed by Brown & Williamson Tobacco Corporation, manufacturer of Barclay.

The Commission has also found that there is a significant likelihood that the same problem (namely, an inaccurate reporting of the "tar", nicotine and CO delivery) exists with respect to Kool Ultra and Kool Ultra 100's, two other brands of cigarettes manufactured by Brown & Williamson. However, the Commission has not concluded at this time that Kool Ultra and Kool Ultra 100's are ranked inappropriately. Three asterisks (* * *) have been appended to the test scores for Kool Ultra and Kool Ultra 100's in this report to indicate this controversy.

By direction of the Commission, dated
Benjamin I. Berman,
Acting Secretary.

BILLING CODE 6750-01-M

[illegible][illegible]

CALLING CODE 6750-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants; Reestablishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92-463, 86 Stat. 770-776, the Office of the Assistant Secretary, DHHS announces the reestablishment of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants by the Secretary, DHHS.

This Advisory Committee advises the Secretary and the Chair of the Agent Orange Working Group concerning its oversight of the conduct of the Ranch Hand Study by the Air Force and provides technical assistance to the Air Force in its conduct of the study. The Advisory Committee will perform the same functions with respect to its oversight of any other studies in which the Work Group believes involvement by the Advisory Committee is desirable.

Authority for this Committee shall terminate on January 19, 1985 unless the Secretary, DHHS, formally determines that continuance is in the public interest.

Dated: March 17, 1983.

John M. Moore, D.V.M.,
Director, Toxicology Research and Testing
Program, National Institute of Environmental
Health Sciences.

[FR Doc. 83-8134 Filed 3-29-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI-109]

Projects in Texas; Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Harper-Miller, Tauber-Rawlins, and McMillian-Stanciliff, all in Brazoria County, Texas; and Bessie West in Fort Bend County, Texas. This Notice is required by the Council on

Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular 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 EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the *Federal Register* a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the *Federal Register*, then a new and updated Notice of Intent will be published.

Dated: March 21, 1983.

Francis G. Haas,
Deputy Director, Office of Environment and Energy.

Appendix

EIS on Harper-Miller Subdivision, Brazoria County, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement (EIS) for a proposed subdivision to be known as Harper-Miller located in Brazoria County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, State and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description: Westview Development, Incorporated, has filed an application with the Houston Multifamily Service Office of the Department of Housing and Urban Development to accept the proposed subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934, as amended. The proposed subdivision is located on Farm-to-Market Road 1462 between the cities of Alvin and Rosharon and is approximately five miles east of State Highway 288. When fully developed, over an eight-year period, the proposed subdivision

consisting of 2,844 acres will provide 9,863 single-family residences and 4,100 multifamily dwelling units and will provide housing for approximately 42,660 persons.

Need: Due to the size of the total proposed project and due to environmental concerns warranting further analysis, the Dallas Area Office has determined that an Environmental Impact Statement should be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives: The alternatives available to the Department are: (1) Accept the project as submitted, (2) accept the project with modifications and conditions to mitigate environmental concerns, or (3) reject the project.

Scoping: No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the Environmental Impact Statement. Responses to this Notice will be used to: (1) Determine significant environmental issues, and (2) identify the concerns which the EIS should address.

Contact: Comments should be sent within 21-days following publication of this Notice in the *Federal Register* to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, P.O. Box 10050, Dallas, Texas 75207. The commercial telephone number of this office is (214) 767-8347 and the FTS number is 729-8347.

EIS on Tauber-Rawlins Subdivision, Brazoria County, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement (EIS) for a proposed subdivision to be known as Tauber-Rawlins located in Brazoria County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, State and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description: Westview Development, Incorporated, has filed an application with the Houston Multifamily Service Office of the Department of Housing and Urban Development to accept the proposed subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934, as amended. The proposed subdivision is located two miles east of State Highway 288, on County Road 48. When fully developed, over an eight-year period,

the proposed subdivision consisting of 1,061 acres will provide 2,837 single-family residences and 3,120 multifamily dwelling units and will provide housing for approximately 15,915 persons.

Need: Due to the size of the total proposed project and due to environmental concerns warranting further analysis, the Dallas Area Office has determined that an Environmental Impact Statement should be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives: The alternatives available to the Department are: (1) Accept the project as submitted, (2) accept the project with modifications and conditions to mitigate environmental concerns, or (3) reject the project.

Scoping: No formal scoping meetings is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the Environmental Impact Statement. Responses to this Notice will be used to: (1) Determine significant environmental issues, and (2) identify the concerns which the EIS should address.

Contact: Comments should be sent within 21-days following publication of this Notice in the *Federal Register* to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, P.O. Box 10050, Dallas, Texas 75207. The commercial telephone number of this office is (214) 767-8347 and the FTS number is 729-8347.

EIS on McMillian-Stancliff Subdivision, Brazoria County, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement (EIS) for a proposed subdivision to be known as McMillian-Stancliff located in Brazoria County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, State and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description: Westview Development, Incorporated, has filed an application with the Houston Multifamily Service Office of the Department of Housing and Urban Development to accept the proposed subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934, as amended. The proposed subdivision is located two miles east of State Highways 58 and 288, in the City of Arcola. State Highway No. 6 forms the southern boundary of the proposed

subdivision. When fully developed, over an eight-year period, the proposed subdivision consisting of 1,121 acres will provide 3,274 single-family residences and 3,200 multifamily dwelling units and will provide housing for approximately 16,815 persons.

Need: Due to the size of the total proposed project and due to environmental concerns warranting further analysis, the Dallas Area Office has determined that an Environmental Impact Statement should be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives: The alternatives available to the Department are: (1) Accept the project as submitted, (2) accept the project with modifications and conditions to mitigate environmental concerns, or (3) reject the project.

Scoping: No formal scoping meetings is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the Environmental Impact Statement. Responses to this Notice will be used to: (1) Determine significant environmental issues, and (2) identify the concerns which the EIS should address.

Contact: Comments should be sent within 21-days following publication of this Notice in the *Federal Register* to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, P.O. Box 10050, Dallas, Texas 75207. The commercial telephone number of this office is (214) 767-8347 and the FTS number is 729-8347.

EIS on Bessie West subdivision, Fort Bend County, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement (EIS) for a proposed subdivision to be known as Bessie West located in Fort Bend County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, State and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

Description: Westview Development, Incorporated, has filed an application with the Houston Multifamily Service Office of the Department of Housing and Urban Development to accept the proposed subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934, as amended. The proposed subdivision is located four miles north of the junction of State Highways Nos. 288 and 6. State

Highway 288 bisects the proposed property. When fully developed, over an eight-year period, the proposed subdivision will provide 2,728 single-family residences and 1,500 multifamily dwelling units and will provide housing for approximately 12,165 persons.

Need: Due to the size of the total proposed project and due to environmental concerns warranting further analysis, the Dallas Area office has determined that an Environmental Impact Statement should be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives: The alternatives available to the Department are: (1) Accept to project as submitted, (2) accept the project with modifications and conditions to mitigate environmental concerns, or (3) reject the project.

Scoping: No formal scoping meetings is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the Environmental Impact Statement. Responses to this Notice will be used to: (1) Determine significant environmental issues, and (2) identify the concerns which the EIS should address.

Contact: Comments should be sent within 21-days following publication of this Notice in the *Federal Register* to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, P.O. Box 10050, Dallas, Texas 75207. The commercial telephone number of this office is (214) 767-8347 and the FTS number is 729-8347.

(FPR Doc. 83-0124 Filed 3-29-83; 9:45 am)
BILLING CODE 4210-29-M

Office of the Secretary

[Docket No. N-83-1224]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office

of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Proposal: Mortgagee's Notice to HUD and Sample Request for Occupied Conveyance

Office: Housing
Form No.: None

Frequency of Submission: On Occasion
Affected Public: Individuals or

Households and Businesses or Other
Institutions (except farms)

Estimated Burden Hours: 19,500

Status: New

Contact: Pat Grote, HUD, (202) 755-5740,
or Robert Neal, OMB, (202) 395-6880.

(Sec. 3507, Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: January 24, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

(FR Doc. 83-6123 Filed 3-29-83; 8:45 am)

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[INT FES 83-19]

Availability of the Final Environmental Impact Statement for the Proposed Construction of a Railroad on the Navajo Indian Reservation in McKinley and San Juan Counties in Northwestern New Mexico

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Availability of a Final Environmental Impact Statement (FEIS).

SUMMARY: This Notice advises the public that the Final Environmental Impact Statement for the proposed construction of the Navajo Railroad on the Navajo Indian Reservation in McKinley and San Juan Counties in northwestern New Mexico is available for public review.

FOR FURTHER INFORMATION CONTACT: Jim R. Analla, Environmental Protection Specialist, Navajo Area Office, Bureau of Indian Affairs, Post Office Box M, Window Rock, Arizona 86515—Mail Code 305. Telephone (602) 871-5151, Extension 5314.

Individuals wishing copies of this final environmental impact statement should immediately contact the above individual.

Copies have been sent to all agencies and individuals who participated in the scoping process and all others who have already requested copies. The number of available copies is limited.

Copies of the final environmental impact statement are available for inspection at the following locations:

Bureau of Indian Affairs, Environmental Services Staff, Room 4518, Washington, D.C. 20245, Telephone: (202) 343-4541.

Bureau of Indian Affairs, Environmental Quality Services, Window Rock, Arizona 86515, Telephone (602) 871-5151, Extension 5314.

U.S. Department of the Interior, Office of the Secretary, Southwest Region, Room 1400, First National Bank Building, 5301 Central Avenue, N.E., Albuquerque, New Mexico 87108, Telephone: (505) 766-3565.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs (BIA), Department of the Interior (DOI), has prepared a final environmental impact statement for a proposed railroad to be constructed from Gallup, New Mexico, approximately 136 miles north to the San Juan River, east of Shiprock, New Mexico.

The proposed action is primarily for transporting coal from the Consolidation

Coal Company CONSOL) coal lease in the Burnham-Bisti area on the Navajo Indian Reservation. A possibly exists that if constructed, the railroad may also operate a common carrier should sufficient need develop.

Primary impacts of the proposed project would be on the area's economics, land use, Navajo socioculture, archeology, localized visual resources, and noise. The socioeconomic impacts would be largely positive, resulting in new job opportunities and additional tax and royalty revenues for state, local and Navajo governments. Mitigating measures will be taken to minimize adverse impacts. Minor impacts may be expected on geology, water resources, terrestrial ecology, aquatic ecology, climatology, and air quality.

The alternatives considered in the FEIS were: No Action; Connection with the Star Lake Railroad; Coal slurry pipeline; Conveyor belt system; Trust haul system; and Alternative routes.

Dated: March 24, 1983.

Bruce Blanchard,

Director, Office of Environmental Project Review.

(FR Doc. 83-6095 Filed 3-29-83; 8:45 am)

BILLING CODE 4310-84-M

Bureau of Land Management

[AZA055000002]

Arizona; Realty Action; Competitive Sale of Public Land in Yuma County

The following described land has been identified as suitable for disposal 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.

T. 8 S., R. 15 W., Gila & Salt River Meridian, Arizona

Parcel A: SW 1/4 Section 29 (160 acres @ \$56,000)

Parcel B: W 1/2 Section 24 (80 acres @ \$28,000)

The land is zoned RA-40 (rural agricultural with one dwelling per 40 acre parcel). The parcels will be sold at public auction by competitive bidding. The sale will be held at the Wellton Town Hall, 28871 Oakland Avenue, Wellton, Arizona on Thursday, May 26, 1983, at 10:00 a.m.

Bidding Information and Instructions: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state of the United States. Bids may

be made by a principal (the one desiring to purchase the land) or his duly qualified agent. Each bid must be for all the land in a specific parcel.

Method of Bidding: Bids may be made either by sealed bids or personally at the sale. Bids sent by mail will only be considered if received by the Bureau of Land Management, Yuma District Office, P.O. Box 5680, Yuma, Arizona 85364, prior to close of business on Wednesday, May 25, 1983. Bids accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid, must be in a separate sealed envelope within the transmittal envelope. The sealed envelopes must be marked in the lower left hand corner "Sealed Bid, Public Land Sale AZA055000002, Parcel Number —, Sale to be May 26, 1983." All sealed bids will be opened at 9:00 a.m. on the day of the sale. Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid for each parcel will be the base price for the oral bids. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these. The successful high bidder, whether by sealed or oral bid, will be required to submit the remainder of the land payment by cash, certified check, bank draft, money order, or any combination of these at the time of the sale or within 30 days after the date of sale.

Post Sale Instructions: If final payment is not received within the specified 30 days, the high bid is rejected, the deposit is forfeited, and the land will be offered to the second highest bidder, subject to the same terms and conditions. All unsuccessful sealed bids will be returned within 30 days of the sale. The land has been found to contain no mineral values and the minerals may be purchased separately by the successful bidder under Section 209(b) of the Federal Land Policy and Management Act (Pub. L. 94-579).

Detailed information concerning the parcels can be obtained from the Yuma District Office.

Patents will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).
2. All minerals with the right to explore, prospect for, mine, and remove

under applicable law, and such regulations as the Secretary of the Interior may prescribe.

Publication of this Notice will segregate the subject lands from all appropriations under the public land laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination by the authorized officer.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Yuma District Office. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of Interior.

Date of first publication is set for April 4, 1983.

To be published once each week for three consecutive weeks in the "Yuma Daily Sun," and once each week for two consecutive weeks in the "Arizona Business Gazette," Phoenix, Arizona and the "Arizona Daily Star," Tucson, Arizona.

Dated: March 21, 1983.

Gary A. McVicker,

Acting District Manager.

[FR Doc. 83-6147 Filed 3-29-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.):

Applicant: Clyde Early, Jr., Salt Lake City, UT
PRT 2-10117

The applicant requests a permit to import one hunting trophy of a captive-bred bontebok antelope (*Damaliscus dorcas dorcas*) that was culled from a ranch heard in South Africa.

Applicant: International Crane Foundation,
Baraboo, WI
PRT 2-6303

The applicant requests an amendment to his permit to import 10 fertile black-necked crane (*Grus nigricollis*) eggs from the Ladakh Province, India, for enhancement of propagation and survival.

Applicant: Zoological Society of San Diego,
San Diego, CA
PRT 2-10149

The applicant requests a permit to import one female mandrill (*Papio sphinx*) and one female white-collared mangabey (*Cercocebus torquatus torquatus*) from Natura Artis Magistra, Amsterdam, for the purpose of enhancement of propagation.

Applicant: Zoological Society of San Diego,
San Diego, CA
PRT 2-10148

The applicant requests a permit to import two male and one female captive born Goeldi's marmosets (*Callimico goeldi*) from the Jersey Wildlife Preservation Trust, Jersey (U.K.), for enhancement of propagation.

Applicant: Lafayette Zoological Park,
Norfolk, VA
PRT 2-10013

The applicant requests a permit to export two rehabilitated brown pelicans (*Pelecanus occidentalis*) to Metro Toronto Zoo, Canada, for enhancement of propagation.

Applicant: William J. Parsons, Hollister, CA
PRT 2-10072

The applicant requests a permit to import one bontebok (*Damaliscus dorcas dorcas*) that is to be taken from a ranch heard in South Africa. The bontebok will be taken to enhance breeding and survival of other bonteboks on the ranch.

Applicant: Oregon Department of Fish and Game, Portland, Oregon
PRT 2-10163

The applicant requests a permit to take wild peregrine falcon (*Falco peregrinus anatum*) eggs for hatching in captivity to enhance production of wild birds. The applicant also wants to conduct surveys of breeding sites and other related activities necessary to help in the recovery of peregrine falcons in Oregon and the West coast.

Applicant: Zoological Society of San Diego,
San Diego, CA
PRT 2-11162

The applicant requests a permit to import one female Jentink's duiker (*Cephalophus jentinki*) from Charles Steiner, Monrovia, Liberia, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N., Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: March 24, 1983.

Larry La Rochelle,
Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-8186 Filed 3-29-83; 8:45 am]
BILLING CODE: 4310-55-M

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to import one polar bear as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Zoological Society of San Diego, P.O. Box 551, San Diego, CA 92112.
2. Type of permit: Import.
3. Name and number of animals: Polar bear (*Ursus maritimus*), one male cub.
4. Type of Activity: Import for public display.
5. Location of Activity: Import from the Calgary Zoo, Alberta to the San Diego Zoo.
6. Period of Activity: one year.

The purpose of this application is for the import of a polar bear cub that became orphaned after its mother was killed as a nuisance bear near an active mine site located near Resolute Bay, Northwest Territories, Canada.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-9949. Written data or views, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WFO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours

in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: March 24, 1983.

Larry LaRochelle,
Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-8185 Filed 3-29-83; 8:45 am]
BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Union Oil Company of California

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3316, Block A-384, High Island Area, offshore Texas.

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 Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North 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 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 21, 1983.

John L. Rankin,
Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-8009 Filed 3-29-83; 8:45 am]
BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.91, Amdt. No. 1]

Mission Director, USAID/Pakistan; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant to the Administrator for Management of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.91 as follows:

The first paragraph is deleted in its entirety and the following paragraph substituted in lieu thereof:

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant to the Administrator for Management, I hereby redelegate to the Mission Director, USAID/Pakistan, the authority to sign:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, cooperative agreements, and amendments thereto, up to an amount of One Million Dollars (or local currency equivalent) per transaction.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The second paragraph is deleted in its entirety and the following paragraphs are substituted in lieu thereof:

The authorities herein delegated in (1) and (2) above may be redelegated in writing, in whole or in part, by said Mission Director as follows:

(a) Basic contracting authority up to \$100,000 and authority up to \$300,000 for personal services contracts may be redelegated at the Mission Director's discretion.

(b) Basic contracting authority over \$100,000 and authority over \$300,000 for personal services contracts may be redelegated with the prior concurrence

of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Mission Director's principal deputy).

The authority herein delegated in (3) above is redelegable only with prior concurrence from the Office of Contract Management.

Such redelegations shall remain in effect until revoked by the Mission Director, or upon advice from the Director, Office of Contract Management, that his concurrence is a redelegation is withdrawn, whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

Except as provided herein this Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment shall be effective on the date of signature.

Dated: March 17, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-8143 Filed 3-29-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.23, Amt. No. 3]

Mission Director, USAID/Nepal; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1, dated May 1, 1973 (38 FR 12836), as amended, I hereby further amend Redelegation of Authority No. 99.1.23, as amended, as follows:

The first paragraph is hereby amended as follows:

- (a) Delete subheads 1 and 2; and
- (b) Substitute the following subheads 1 through 5 in lieu thereof:

1. U.S. Government contracts (including nonpersonal service contracts with individuals for the services of the individual alone), cooperative agreements, grants (other than grants to foreign governments or agencies thereof), and amendments up to an amount of \$100,000 (or local currency equivalent) per transaction.

2. Personal services contracts provided the aggregate amount of each individual contract does not exceed \$300,000.

3. To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve

contract, cooperative agreement, and grant provisions relating to such advance payments.

4. Advances under nonpersonal services contracts with individuals.

5. Operational Program Grants (OPGs) to U.S. Private Voluntary Organizations (PVOs), as defined in Appendix 4B, Chapter 4, AID Handbook 3, *Project Assistance*, and in accordance with the procedures of Chapter 4, AID Handbook 13, *Grants*, on the following basis:

- (a) Such OPG's shall not exceed \$1,000,000 for the life of project;
- (b) Each OPG shall constitute assistance; and
- (c) The post must be advised by AID/W, prior to signing the OPG that Congress has been notified and funds have been allotted.

The second paragraph is hereby deleted in its entirety and the following paragraphs substituted in lieu thereof:

The authorities delegated in 1, 2, and 3 above may be redelegated in writing, in whole or in part, by said Mission Director, at his discretion to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Mission Director, whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

The authorities delegated in 4 and 5 above are not redelegable.

Except as provided herein, this Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on date of signature.

Dated: February 7, 1983.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 83-8144 Filed 3-29-83; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection: The proposed information collection is

for use by the Commission in connection with investigation No. 332-155, The Competitive Position of U.S. Producers of Robotics in Domestic and World Markets.

Summary of Proposal: The following summarizes the information collection proposal submitted to OMB for investigation No. 332-155:

- (1) Number of forms submitted: Three.
- (2) Title of forms: Questionnaire for Producers of Robots; Questionnaire for Importers of Robots; and Questionnaire for Purchasers of Robots.
- (3) Type of request: New.
- (4) Frequency of use: Nonrecurring.
- (5) Description of respondents: U.S. producers, importers, and purchasers of robotics.
- (6) Estimated number of respondents: 80.

(7) Estimated total number of hours to complete the forms: 2,000.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

(9) Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information or Comment: Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202-523-4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly, you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436).

Issued: March 25, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-8219 Filed 3-29-83; 8:45 am]

BILLING CODE 7020-02-M

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the

Office of Management and Budget for review.

Purpose of Information Collection: The proposed information collection is for use by the Commission in connection with Investigation No. 332-159, A Study on the Conditions of Competition between Imported and Domestically Produced Pianos, in response to a request from the Chairman of the Subcommittee on Trade of the House Committee on Ways and Means.

Summary of Proposal:

- (1) Number of forms submitted: Two.
- (2) Title of forms: A Study on the Conditions of Competition between Imported and Domestically Produced Pianos-Questionnaire for "U.S. Producers" (Importers) of Pianos.
- (3) Type of request: New.
- (4) Frequency of use: Nonrecurring.
- (5) Description of respondents: U.S. producers and importers of pianos.
- (6) Estimated number of respondents: 60.
- (7) Estimated number of hours to complete the forms: 330.
- (8) Information obtained from the questionnaires that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.
- (9) Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information or Comment: Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202-523-4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly, you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E. Street, NW., Washington, D.C. 20436).

Issued: March 23, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-8222 Filed 3-29-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-125]

Certain Grooved Wooden Handle Kitchen Utensils and Gadgets; Termination of Investigation and Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Termination of investigation and issuance of consent order.

SUMMARY: On November 30, 1982, complainant Bonny Products, Inc., respondents Four Star International Trading Co. and G & S Metal Products Co., Inc., and the Commission investigative attorney filed a joint motion (Motion No. 125-1) to terminate the investigation with respect to both respondents. The motion was based on a consent order agreement which incorporated a settlement agreement signed by the complainant, respondents, and Shen Fa Handicraft Center (a nonparty) and a proposed consent order. On December 6, 1982, the presiding officer recommended that the Commission approve Motion No. 125-1 and issue the proposed consent order with paragraph 2 deleted.

A Federal Register notice was published on January 26, 1983, seeking comments on the proposed termination from interested members of the public and other government agencies, 48 FR 3666. No comments were received. On March 22, 1983, the Commission granted the joint motion, issued the proposed consent order, and terminated the investigation.

SUPPLEMENTARY INFORMATION: Investigation No. 337-TA-125 was instituted on August 11, 1982. The Commission was conducting this investigation to determine whether there was a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) by reason of unfair methods of competition and unfair acts in the importation and sale of certain grooved wooden handle kitchen utensils and gadgets. The alleged unfair methods of competition and unfair acts included misappropriation of trade dress, false representation of source, and common law trademark infringement. These alleged unfair acts were alleged to have the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Copies of the Commission Action and Order, the consent order, and all other nonconfidential documents filed in connection with the investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S.

International Trade Commission, 701 E. Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0079.

Issued: March 23, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-8225 Filed 3-29-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-132]

Certain Hand-Operated, Gas-Operated Welding, Cutting and Heating Equipment and Component Parts Thereof

Notice is hereby given that a prehearing conference scheduled for April 18, 1983 and the hearing scheduled to commence immediately thereafter (48 FR 11189, March 16, 1983) are cancelled.

The Secretary shall publish this notice in the Federal Register.

Issued: March 22, 1983.

Janet D. Saxon,
Administrative Law Judge.

[FR Doc. 83-8226 Filed 3-29-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-187 (Final) and 731-TA-100 (Final)]

Certain Tool Steels From Brazil and the Federal Republic of Germany

AGENCY: International Trade Commission.

ACTION: Suspension of final countervailing duty investigation and postponement of hearing.

EFFECTIVE DATE: March 14, 1983

SUMMARY: On March 14, 1983, the United States Department of Commerce suspended its countervailing duty investigation involving certain tool steels from Brazil. The basis for the suspension is an agreement by the Government of Brazil to offset completely the amount of net subsidy determined by Commerce to exist with respect to the subject product. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its countervailing duty investigation involving certain tool steels from Brazil (investigation No. 701-TA-187 (Final)). Additionally, the Commission hereby gives notice of the cancellation of the hearing to held in connection therewith.

Since the Department of Commerce has postponed its final determination in its investigation on certain tool steels from the Federal Republic of Germany until May 27, 1983, the Commission is likewise rescheduling its final determination in accordance with section 735 (b)(2) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)) and is postponing its hearing in that investigation. Notice of the Commission's new hearing date will be published as soon as it is determined.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen P. Miller, Office of Investigations, U.S. International Trade Commission, (202) 523-0305.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

Issued: March 21, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-6223 Filed 3-29-83; 8:45 am]

BILLING CODE 7020-02-M

[332-160]

A Competitive Assessment of the U.S. Video Game Industry

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted on its own motion investigation No. 332-160 for the purpose of assessing the current and prospective competitiveness of the U.S. video game industry. The study will analyze the rapid growth of the U.S. industry, the growing reliance on overseas assembly of video games, and markets for such games in Canada, Europe, and Japan. The study will also assess conditions of competition between U.S. producers and producers in Europe, Canada, Japan, Taiwan, and Hong Kong.

EFFECTIVE DATE: February 25, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Watkins or Mr. Rhett Leverett, General Manufactures Division, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202-724-0976, or 202-724-1725, respectively.

Written Submissions: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly

marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on October 30, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: March 22, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-6224 Filed 3-29-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-179 Through 181 (Final)]

Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod From Brazil

AGENCY: International Trade Commission.

ACTION: Continuation of final countervailing duty investigations.

EFFECTIVE DATE: February 22, 1983.

SUMMARY: On February 2, 1983, the United States Department of Commerce suspended its countervailing duty investigations concerning hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod (certain stainless steel products) from Brazil (48 FR 4703). The basis for the suspension was an agreement by the Government of Brazil to offset all benefits which Commerce found to constitute subsidies with an export tax on all exports of the subject products to the United States. Accordingly, pursuant to section 704(f)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1671c(f)(1)(B)), the United States International Trade Commission suspended its countervailing duty investigations on the subject products from Brazil (48 FR 8875). On February 22, 1982, however, a request to continue the investigations was filed with Commerce and the Commission pursuant to section 704(g)(2) of the Tariff Act (19 U.S.C. 1671c(g)(2)) by counsel for the petitioners. Accordingly, the Commission hereby gives notice of the continuation of investigations Nos. 701-TA-179 through 181 (Final), Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod from Brazil. Unless the

investigations are extended, the Department of Commerce will make its final subsidy determinations in these cases by May 9, 1983, and the Commission will make its final injury determinations by June 23, 1983.

FOR FURTHER INFORMATION CONTACT:

Larry Reavis, (202/523-0296), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 8189, February 10, 1982), not later than 21 days after the publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, August 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on April 29, 1983, pursuant to § 206.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on May 11, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on May 2, 1983. All persons desiring to appear at the hearing and make oral presentation should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., e.s.t., on May 5, 1983, in room 117 of the U.S. International Trade

Commission Building. The deadline for filing prehearing briefs is May 6, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, August 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, August 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on May 23, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 23, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, August 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, August 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: March 22, 1983.

By order of the Commission,
Kenneth R. Mason,
Secretary.

(FR Doc. 83-6221 Filed 3-29-83; 8:45 am)
BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-127, 128 and 129 (Preliminary)]

Thin Sheet Glass From Switzerland, Belgium, and the Federal Republic of Germany

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: March 16, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Switzerland, Belgium, and the Federal Republic of Germany of thin sheet glass, provided for in items 542.11 and 542.13 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Zeck, Office of Investigations, U.S. International Trade Commission, 701 E St., NW., Washington, D.C. 20436, telephone 202-523-0339.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on March 16, 1983, on behalf of Jeannette Sheet Glass Corp., Jeannette, Pa., a domestic producer of the subject merchandise. The Commission must make its determinations in the investigations within 45 days after the date of the filing of the petition, or by May 2, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the

late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in the investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before April 14, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on April 11, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Ms. Judith Zeck (202-523-0339), not later than April 4, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submission, except for confidential business data, will be available for public inspection

during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, August 4, 1982), and Part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, August 4, 1982). Further information concerning the conduct of the conference will be provided by Ms. Zeck.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: March 23, 1983.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-6220 Filed 3-29-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: March 25, 1983.

The following notices were filed in accordance with section 10528(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt interstate transportation must file the Notice, Form BOP-12, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Cornucopia Lines, Inc., (2) 4880 N. Cedar Ave., Suite 102, Fresno, CA 93726.

(3) Donato Guerra 900 Sur, Col. Guadalupe, Culiacan, Sinaloa, Mexico.
(4) Jose Zuniga, P.O. Box 727, El Toro, CA 92630.

(1) Sutherland Farmers Co-operative Company, (2) Box 100, Sutherland, IA 51058.

(3) Iowa Better Trucking, 328 Livestock Exchange, Sioux City, IA 51107.

(4) Carolyn Roberts, Box 100, Sutherland, IA 51058.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-6117 Filed 3-29-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region 2. Send protests to: ICC, Fed.

Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 166706 (Sub-II-1TA), filed March 10, 1983. Applicant: ASAP LINES, INC., 7987 Secretariat Court, Cincinnati, OH 45052. Representative: Charles J. Postow, 2100 Central Trust Center, 201 East Fifth St., Cincinnati, OH 45202. General commodities (except Class A and B explosives, household goods and commodities in bulk) between points in OH, MI, WI, IN, IL, KY, TN, MS, LA, TX, AL, GA, FL, SC, NC, VA, WV, PA, MD, DC, NJ, NY, CT, RI, MA, NH, DE, ME and VT, for 270 days Supporting shipper: Nationwide Shippers Co-operative Association, Inc., 2735 Spring Grove Ave., Cincinnati, OH 45225.

MC 161571 (Sub-II-2TA), filed March 10, 1983. Applicant: AMERICAN DELIVERY SERVICE, INC., 8415 Envoy Ave., Philadelphia, PA 19153. Representative: Richard Rueda, 135 N. 4th St., Philadelphia, PA 19106. Contract, irregular: such commodities as are dealt in or used by retail department stores between points in NY, NJ, and CA, on the one hand, and, on the other, points in NY, NJ, CA, AZ, NM, and NV. Supporting shipper: HRT Industries, Inc., 2525 Military Ave., Los Angeles, CA 90064.

MC 166660 (Sub-II-1TA), filed March 8, 1983. Applicant: RICHARD P. MARENO & SAMUEL R. MAZZEL, d.b.a. AQUARIUS TRANSPORTATION, 254 Richland Dr., Penn Hills, PA 15235. Representative: Richard P. Mareno (same as applicant). General commodities (except classes A and B explosives, household goods and commodities in bulk), between points in DE, MD, MI, NJ, NY, OH, PA, VA, and WV. Supporting shipper(s): M&T Pallet Inc., 1028 Halket St., Braddock, PA 15104; Childs Equipment Co., 901 Killarney Dr., Pittsburgh, PA 15234; Babcock Lumber Company, 2220 Palmer St., Pittsburgh, PA 15238.

MC 150511 (Sub-II-15TA), filed March 21, 1983. Applicant: BETTER HOME DELIVERIES, INC., 3700 Park East Drive, Cleveland, OH 44122. Representative: Thomas B. Hill, 1101 31st Street, Downers Grove, IL 60515. Such commodities are sold by or used by retail department stores, from Atlanta, GA to points in SC, under continuing contract(s) with Davison's a division of R. H. Macy & Co., Inc. of Atlanta, GA, for 270 days. Supporting Shipper: Davison's a division of R. H. Macy & Co., Inc., 180 Peachtree St., NW, Atlanta, GA 30303.

MC 120841 (Sub-II-1TA), filed March 14, 1983. Applicant: BLACK & WHITE EXPRESS, INC., 217 American Ave.,

Butler, PA 16001. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Meat, meat products, and meat by-products*, between Butler and Punxsutawney, PA, on the one hand, and, on the other, points in WV; Allegheny, Garrett and Washington Counties, MD; and those points in OH on and east of Interstate Hwy 77. An underlying ETA seeks 120 days authority. Supporting shipper(s): Swift Independent Packing Co., Punxsutawney, PA; Russer Foods, 665 Perry St, Buffalo, NY; Oscar Mayer Foods Corp, Madison, WI.

MC 166657 (Sub-II-1TA), filed March 8, 1983. Applicant: CLATTERBAUGH, INC., P.O. Box 828, Charlottesville, VA 22902. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. (1) *coal*, between points in KY, TN, VA and WV, on the one hand, and, on the other, points in MD, NC, PA, SC, VA and WV and (2) *expanded shale lightweight aggregates*, between points in VA, on the one hand, and, on the other, points in TN and WV. An underlying ETA seeks 120 days authority. Supporting Shippers: John Farmer Coal Sales, Inc., Norris, TN; VA Hot Springs, Inc., Hot Springs, VA; Weblite Corp., Blue Ridge, VA.

MC 119420 (Sub-II-2TA), filed March 8, 1983. Applicant: FRED FAIRALL CONSTRUCTION CO., 801 West First St., Uhrichsville, OH 44683. Representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212. *Clay products*; (1) from Tuscarawas County, OH to points in NC and NJ and (2) from Wake County, NC to points in Macom, Monroe, Livingston, Oakland, St. Clair, Sanilac, Washtenaw, and Wayne Counties, MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Superior Clay Corp., P.O. Box 352, Uhrichsville, OH 44683; The Belden Brick Sales Co., 14305 Livernois Ave., Detroit, MI 48238.

MC 128290 (Sub-II-10TA), filed, March 10, 1983. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. *Paper and paper products* from Richmond, VA to points in MD, DE, PA, NJ, NY, CT, RI, MA, VA, and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: James River Corporation, P.O. Box 2218, Richmond, VA 23217.

MC 166590 (Sub-2-1TA), filed, March 3, 1983. Applicant: JOHN PLAXA, d.b.a. JOHN'S LEASING, R.D. 1, Auburn, PA 17922. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O.

Box 1717, Hagerstown, MD 21740. Contract: Irregular: *Elevators and escalators, including materials, equipment and supplies used in the manufacture, sale and distribution thereof*, between Bloomington, IN, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, IN and MS, for 270 days, under a continuing contract(s) with Otis Elevator Company. An underlying ETA seeks 120 days authority. Supporting shipper: Otis Elevator Company, 1331 Curry St., Bloomington, IN 47401.

MC 166249 (Sub-2-1TA), filed, March 3, 1983. Applicant: DENNIS C. LILLY, 5194 Carroll Dr., Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Machine and mill rolls*, (1) between all points in the U.S. in and east of MN, LA, MO, AR and LA; and (2) between Roselle, NJ; Coatesville, PA and Middletown, VA, including their respective commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Precision Roll Grinders, Inc., Rt. 2, Box 628B, Wescoville, PA 18106; Pamarco Incorporated, 209 E. 11th Ave., Roselle, NJ 07203; Westvaco Corp., Luke, MD; L. C. Industries, Inc., P.O. Box 986, Coatesville, PA 19320; and Stowe Woodward Co., P.O. Box 250, Middletown, VA 22645.

MC 107012 (Sub-II-274TA), filed, March 8, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy—30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the U.S., under continuing contract(s) with Rogers Corporation of Rogers, CT for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Rogers Corporation, 1 Technology Drive, Rogers, CT 06263.

MC 107012 (Sub-II-275TA), filed, March 8, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except classes A and B explosives and commodities in bulk) between points in the U.S. under continuing contract(s) with Fisher Controls International, Inc., of Marshalltown, IA for 270 days. Supporting shipper: Fisher Controls International, Inc., 205 South Center St., Marshalltown, IA 50158.

MC 107012 (Sub-II-276TA), filed March 10, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except household goods, classes A & B explosives and commodities in bulk) between points in the United States under continuing contract(s) with Otis Elevator Company of Bloomington, IN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Otis Elevator Company, 1331 Curry Pike Road, Bloomington, IN 47401.

MC 107012 (Sub-II-277TA), filed March 8, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the United States, under continuing contract(s) with Turner Broadcasting Systems, Inc., of Atlanta, Georgia, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Turner Broadcasting Systems, Inc., 1050 Techwood Drive, Atlanta, GA 30318.

MC 166659 (Sub-II-1TA), filed March 8, 1983. Applicant: WILLIAM PASQUALICHIO & DOMINICK PASQUALICHIO, a Partnership d.b.a. PASQUALICHIO BROTHERS, 115 Franklin Ave., Scranton, PA 18512. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. *Meat, meat products and meat by-products*, between Lackawanna County, PA, on the one hand, and, on the other, points in PA. Restricted to shipments having a prior or subsequent movement in interstate commerce. Supporting shipper(s): F.D.L. Foods, Inc., P.O. Box 898, Dubuque, IA 52001.

MC 145198 (Sub-II-1TA), filed March 7, 1983. Applicant: PENN TRANSFER, INC., 131 North Summit Street, Akron OH 44309. Representative: Michael Spurlock, 275 East State Street, Columbus OH 43215. (1) *General commodities* (except classes A & B explosives, household goods, commodities in bulk, commodities which by reason of size or weight require the use of special equipment and those of unusual value, and (2) commodities in bulk in tank vehicles, between points in OH, on the one hand, and on the other, points in MI, IL, IN, WV and PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 5 supporting shippers. Their

statements may be examined in the Phila ICC office.

MC 112539 (Sub-II-3TA), filed March 8, 1983. Applicant: PERCHAK TRUCKING, INC., P.O. Box 811 Hazleton, PA 18201. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. *Foodstuffs and related products*, between Onondago County, NY, on the one hand, and, on the other, Luzerne County, PA. An underlying ETA seeks 120 days authority. Supporting shipper: D.B. Rossi Beverage Company, Inc., 138 W. 21st St., Hazleton, PA 18201.

MC 151767 (Sub-II-4TA), filed March 14, 1983. Applicant: BOYD F. POWERS AND MICHAEL J. POWERS d.b.a. POWERS TRUCKING CO., 52 Market St., Lock Haven, PA 17745. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006. *Coal and coal products*, between points in Clearfield County, PA, on the one hand, and, on the other, points in NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Moshannon Mining, Inc., Moshannon, PA.

MC 152640 (Sub-II-16TA), filed March 8, 1983. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 North Dupont Hwy., Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, D.C. 20005. *Such merchandise as is dealt in and distributed by retail department stores, discount houses and chain stores, and materials and supplies used in the manufacture and distribution of the aforementioned commodities*, between points in NC and SC, on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper: Wix Corp., P.O.B. 1967, Gastonia, NC 28052.

MC 166111 (Sub-II-1TA), filed March 14, 1983. Applicant: LEE SARTIN TRUCKING CO., INC., Box 152, Naugatuck, WV 25685. Representative: Lee Sartin, Jr., Rt. 1, Box 139, Kermit, WV 25674. *Mining supplies, Mandoseals, rockdust concrete blocks and gravels*, from Naugatuck, WV to Pittsburgh, PA; Pebbles, OH and Olive Hill, KY, under continuing contract(s) with Marrowbone Development Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): Marrowbone Development Co., Naugatuck, WV.

MC 147258 (Sub-II-3TA), filed March 14, 1983. Applicant: F.T. SILFIES, INC., 751 Pt. Phillips Rd., Bath, PA 18014. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966.

Cement Flue Dust, in bulk, in dump vehicles, from Bath, PA to points in NJ. An underlying ETA seeks 120-day authority. Supporting shipper: Keystone Portland Cement Co., Bath, PA 18014.

MC 163150 (Sub-II-1TA), filed March 21, 1983. Applicant: TIDEWATER EXPRESS, INC., Route 413, Box 98-A, Crisfield, MD 21817. Representative: Mark D. Russell, Suite 348 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. *Foods and related products*, between points in Wicomico, Somerset and Worcester Counties, MD, and Accomac and Northampton Counties, VA, on the one hand, and, on the other, points in the US in and east of MN, IA, MO, AR and LA. for 270 days. Supporting shipper: Mid-Atlantic Foods, Inc., Post Office Box 367, Pocomoke City, MD 21851.

MC 149029 (Sub-II-2TA), filed March 8, 1983. Applicant: VANWORMER TRUCKING, INC., Star Route Cranberry, PA 16319. Representative: Dwight L. Koerber, Jr., 110 North Second St., P.O. Box 1320, Clearfield, PA 16830. *Plastic containers*, from facilities of Sewell Plastics, Inc., in Westmoreland County, PA, to points in OH, WV, NY, NJ, DE, MD, VA, NC, and SC. An underlying ETA seeks 120 days authority. Supporting shipper: Sewell Plastics, Inc., P.O. Box 470, New Stanton, PA 15672.

MC 16672 (Sub-II-1TA), filed March 14, 1983. Applicant: S. J. WAITE HORSE TRANSPORTATION, INC., P.O. Box 506, 963 Shirley Manor Rd., Reisterstown, MD 21136. Representative: Sidney Joseph Waite (same address as applicant). *Horses (other than ordinary livestock), equipment and paraphernalia incidental to the care, transportation and exhibition of such horses* between points in MD, PA, NJ, NY, DE, OH, VA, WV and KY. Supporting shipper(s): Robert L. Moser, Deer View Farm, 2121 Kaysmill Rd., Finksburg, MD.

MC 114781 (Sub-II-1TA), filed March 9, 1983. Applicant: WARFEL TRUCKING, INC., R.D. #2, Peach Bottom, PA 17563. Representative: Christian V Graf, 407 N Front St, Harrisburg, PA 17101. *Petroleum products (except in bulk) from Petrolia and Bakerstown, PA to points in DE, MD, NJ, NY and VA*. An underlying ETA seeks 120 days authority. Supporting shipper: Witco Chemical Corp., 77 N. Kendall Ave., Bradford, PA.

MC 41951 (Sub-II-5TA), filed March 9, 1983. Applicant: WHEATLEY TRUCKING, INC., PO Box 458, Cambridge, MD 21613. Representative: Daniel B. Johnson, 4304 East-West Highway, Bethesda, MD 20814. *Wearing apparel, materials, supplies and equipment used in the manufacture of*

wearing apparel, between pts in MD, VA, NC, SC, TN, MS, AL, GA, FL, WV, KY, OH and NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Rob Roy, Inc., PO Box 459, Cambridge, MD 21613.

MC 123790 (Sub-II-1TA), filed March 14, 1983. Applicant: WHITEHURST TRANSPORT, INC., 2800 Deepwater Terminal Rd., P.O. Box 3H, Richmond, VA 23206. Representative: Francis W. McInerney, 1000 18th St., NW, Suite 502, Washington, D.C. 20036. *Bituminous materials*, between Youngstown, OH and Richmond, VA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Neyra Industries, Inc., 5391 Wooster Rd., Cincinnati, OH 45226.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-6116 Filed 3-29-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers: Notice of Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 L.C.C. 1113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on April 29, 1983. Petitions for reconsideration must be filed by April 19, 1983. Petitions for stay must be filed by April 11, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 269-4357 in the DC metropolitan area; or (800) 424-5403 Toll-free outside the DC area.

Decided: March 23, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie

votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

MC-F-15032. **KEPHART TRUCKING CO.—PURCHASE EXEMPTION—TAJON, INC.** Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Dwight L. Koerber, Jr., 110 North Second Street, P.O. Box 1320, Clearfield, PA 16830. Pleadings should refer to MC-F-15032. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the purchase by Kephart Trucking Co. (MC-138386) of all interstate operating rights held by Tajon, Inc., under MC-5470 (Sub-No. 232) and Sub-No. 233X, which authorizes generally the transportation of (1) such commodities as are transported in dump vehicles, between those points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, and (2) numerous specified commodities to and from various points in States generally within the territory described in (1) above.

MC-F-15052. **RICHARD R. RUEHLE—CONTINUANCE IN CONTROL EXEMPTION—TITAN TRANSPORTATION, INC., AND FINDLAY TRUCK LINE, INC.** Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Philip B. Cochran, 50 West Broad Street, Columbus, OH 43215. Pleadings should refer to MC-F-15052. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(b), the continuance in control by Richard R. Ruehle of Findlay Truck Line, Inc. (No. MC-120378), and Titan Transportation, Inc., when the latter becomes a certified carrier in No. MC-162951 (Sub-No. 1).

MC-F-15060. **MATSON TRUCK LINES, INC.—MERGER EXEMPTION—SHURSON TRUCKING COMPANY, INC.** Send pleadings to: (1) Motor Section, Team 5, Room 2414, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Val M. Higgins, Mackall, Crounse & Moore, 1600 TCF Tower, Minneapolis, MN 55402. Pleadings should refer to MC-F-15060. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the merger of Shurson Trucking Company,

Inc. (No. MC-143739) into Matson Truck Lines, Inc. (No. MC-105007) for management, control, and operation.

MC-F-15072. **PHILIP E. LATTAVO—CONTINUANCE IN CONTROL EXEMPTION—ACTION TRANSIT COMPANY, LATTAVO BROTHERS, INC., AND PEOPLES CARTAGE, INC.** Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: M. Diane Neal, Esq., 2230 Shepler Church Avenue, S.W., P.O. Box 6270, Canton, OH 44706. Pleadings should refer to MC-F-15072. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the continuance in control by Philip E. Lattavo of Action Transit Company (MC-149604), Lattavo Brothers, Inc., (MC-45194), and Peoples Cartage, Inc., (MC-123685).

MC-F-15082. **HOWARD A. WELLS, JR., ET AL.—CONTINUANCE IN CONTROL EXEMPTION—WESTERN CARGO, INC.** Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's representative: Royal F. Miller, Western Cargo, Inc., P.O. Box 20489, Reno, NV 89515. Pleadings should refer to MC-F-15082. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. § 11343(a), the continuance in control by Howard A. Wells, Jr., James M. Wells, and Terry L. Wells of Western Cargo, Inc. (No. MC-148980) and Wells Cargo, Inc. (No. MC-43209).

[FR Doc. 83-8113 Filed 3-29-83; 8:45 am]

BILLING CODE 7035-01-M

[OP4F-176]

MOTOR CARRIERS; NOTICE OF PROPOSED EXEMPTIONS

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: Comments must be received within 30 days after the date of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 23, 1983.

By the Commission, Heber P. Hardy,
Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

SUNDANCE TRANSPORTATION, INC.—CONTINUANCE IN CONTROL EXEMPTION—WHITFIELD TANK LINES, INC. AND TRANSPORT-WEST, INC.

MC-F-15189. Sundance Transportation, Inc. (Sundance), a non-carrier, and, in turn, Allan D. Musgrove and Sally A. Musgrove, who control Sundance through stock ownership, seek an exemption from the requirement of prior regulatory approval for their continuance in control of Sundance's subsidiaries, Whitfield Tank Lines, Inc. (MC-114897), and Transport-West, Inc., (MC-148791). Send Comments to:

(1) Motor Section, room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and (2) Petitioner's representative, William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110.

Comments should refer to No. MC-F-15189.

[FR Doc. 83-8111 Filed 3-29-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from § 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

The decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a

reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,
Secretary.

Vol. No. OP1-FC-101. By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

For status, please call Team 1 at 202-275-7992.

MC-FC-81275. By decision of March 18, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 1 approved the transfer to Dennis L. Thompson Trucking, Inc., of Denver, CO, of Certificate No. MC-155220, issued November 5, 1981, to Ackley Truck Line, Inc., of Denver, CO, authorizing the transportation, over regular routes, of general commodities (except classes A and B explosives), (1) between Denver, CO, and Holyoke, CO, (a) over U.S. Hwy 6, and (b) from Denver, CO, over U.S. Hwy 85 to Greeley, CO, then over U.S. Hwy 34 to Wray, CO, then over U.S. Hwy 385 to Holyoke, CO, and return over the same route, serving all intermediate points and serving points in Washington County, CO, as off-route points in (a) and (b) above, and (2) between Denver, CO, and Wray, CO, from Denver, CO over U.S. Hwy 36, to Idalia, CO, then over U.S. Hwy 385 to Wray, CO, and return over the same route, serving all intermediate points and serving points in Washington County, CO, as off-route points. An Application for temporary authority has been filed. Applicant's representative: Nancy P. Bigbee, 726 E. 16th St., Suite 302, Denver, CO, 80203.

Vol. No. OP1-FC-102. By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

For status, please call Team 1 at 202-275-7992.

MC-FC-79946. By decision of March 21, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 reopened the proceeding which was previously decided on July 29, 1982, and published in the FR issue on August 20, 1982, and approved the additional transfer to THRU LINE, INC., W. Hartford, CT, of Certificate No. MC-28536 (Sub-5), issued January 25, 1960, to FOX & GINN, INC., Bangor, ME, authorizing transportation (A) over regular routes of general commodities with exceptions, and specified commodities, from, to, or between specified points in MA, ME, and NH, (B) of general commodities with exceptions, between points in Knox and Waldo Counties, ME, and Boston, MA, from points in Knox and Waldo Counties, over irregular routes to junction U.S. Hwy 1, then over U.S. Hwy 1 to Boston, MA, and return over the same routes, and (C) over irregular routes, of general commodities with exceptions, between Boston, MA, and points in MA within 12 miles of Boston. Representative: Steven L. Weiman, 444 North Frederick Ave., Suite 200, Gaithersburg, MD 20877.

Vol. No. OP3-MCFC-122. By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

For status, please call Team 3 at 202-275-5223.

Decided: March 22, 1983

MC-FC-81225. By decision of March 22, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 approved the transfer to ROBERT L. YONKE AND MARLYS M. YONKE, d.b.a. YONKE TRUCKING, of Crofton, NE, of Certificate No. MC-61564, issued April 22, 1964, to RAYMOND T. SMITH, of Bloomfield, NE, authorizing the transportation of (1) *livestock, feed, agricultural commodities, coal, farm machinery and parts, binder twine, and household goods*, between Crofton, NE, and points in NE within 20 miles of Crofton, NE, on the one hand, and, on the other, Sioux City, IA, and Yankton, SD, (2) *grain*, from points in IA, to Crofton, NE, and points in NE within 20 miles of Crofton, NE, and (3) *general commodities* (except those of unusual value, classes A and B explosives, household goods, and commodities requiring special equipment), from Sioux

City, IA, to Crofton, NE. Representative: Don A. Bierle, 322 Walnut St., P.O. Box 38, Yankton, SD 57078.

MC-FC-81206. By decision March 22, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to LUXURY LIMOUSINE LIMITED, of North Haven, CT, of Certificate No. MC-1934 (Sub-11), issued May 26, 1967, to THE ARROW LINE, INC., of East Hartford, CT, authorizing the transportation of *passengers and their baggage*, in special operations, in nonscheduled door-to-door service, limited to the transportation of not more than seven passengers in any one vehicle (not including the driver thereof), between points in Hartford County, CT, on the one hand, and, on the other, New York, NY. Representative: Lawrence J. Carboni, 19 Whitney Ave., New Haven, CT 06510.

[FR Doc. 83-8112 Filed 3-29-83; 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 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 quantity 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 2, (202) 275-7030.

Volume No. OP 2-139.

Decided: March 22, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (member Carleton not participating.)

MC 5623 (Sub-64), filed March 2, 1983. Applicant: ARROW TRUCKING CO., 4230 South Elwood, P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box 11, McLean, VA 22101, 703-893-3050. Transporting *lumber and wood products, clay, concrete, glass or stone products, and building materials*, between points in the U.S. (except HI).

MC 49743 (Sub-3), filed March 2, 1983. Applicant: ADMIRAL MOVING & STORAGE, INC., 420 Ellington Rd., South Windsor, CT 06074. Representative: Gerald A. Joseloff, 410 Asylum St.—Suite 532, Hartford, CT 06103, 203-728-0700. Transporting *household goods and office furniture, equipment and supplies*, between points in CT, on the one hand, and, on the other, those points in the U.S., in and east of WI, IL, KY, TN, and MS.

MC 140033 (Sub-107), filed March 7, 1983. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Suite 1125—Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, 214-358-3341. 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 140312 (Sub-6), filed March 7, 1983. Applicant: SARGENT TRANSPORT, INC., 1882 Obi Rd., Portville, NY 14770. Representative: Raymond A. Richards, 35 Curtice Park,

Webster, NY 14580, 716-265-9510. 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 Union Sales Corp., of Olean, NY, Whitehawk (O'Jacks, Inc.), of Eldred, PA, Bush Industries, of Little Valley, NY, and Tri-County Tube, Inc., of Nunda, NY.

MC 146202 (Sub-4), filed March 3, 1983. Applicant: CONTRACTUAL CARRIERS, INC., Alan Drive, Harmony Industrial Park, Newark, DE 19711. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301-840-8565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with Oil-Dri Corporation of America, of Chicago, IL.

MC 146783 (Sub-8), filed March 1, 1983. Applicant: S & L TRANSPORTATION, INC., 59-21 156th St., Flushing, NY 11355. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201-234-0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156133 (Sub-6), filed February 23, 1983. Applicant: TANDEM TRANSPORT CORP., 322 U.S. Hwy 20 West, Michigan City, IN 46360. Representative: James M. Hodge 3730 Ingersoll Ave., 515-274-4985. Transporting *metal products*, between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Condition: Issuance of this authority is subject to approval of common control pursuant to MC-156133 Sub 5.

MC 156312 (Sub-1), filed March 2, 1983. Applicant: C MILE TRANSPORT, LTD., Exeter Rd., Box 578, 100 Mile House, British Columbia, Canada V0K 2E0. Representative: George Costello (same address as applicant), 604-395-2229. 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 U.S. and Canada in WA, ID, and MT, on the one hand, and, on the other, points in the U.S. in and west of MT, WY, CO, and NM (except AK and HI).

MC 162812, filed February 24, 1983. Applicant: BRANDY TRUCKING COMPANY, 5529 Montclair St., Detroit, MI 48213. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A,

Troy, MI 48084, 313-649-8650.

Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 166552, filed March 1, 1983. Applicant: SAMUEL MONASTERO, INC., 536 East Moore, St., Norristown, PA 19041. Representative: Samuel Monastero (same address as applicant), 215-279-8388. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 166582, filed March 3, 1983. Applicant: FREIGHT EXPRESS, INC., Rte. 4, Box 163-A, Hamilton, AL 35570. Representative: C. Harry Green, Bexar Ave., P.O. Box 547, Hamilton, AL 35570, 205-921-2133. Transporting *steel, steel products, and lumber*, between points in the U.S. (except AK and HI).

MC 166602, filed March 4, 1983. Applicant: DeMAIO TRANSPORTATION, INC., 2944 Bethel Rd., Chester, PA 19013. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 S. 12th St., Philadelphia, PA 19107, 215-922-1400. Transporting *food and related products*, between points in NC, VA, MD, DE, NJ, PA, NY, OH, IN, IL, and DC.

MC 166603, filed March 4, 1983. Applicant: MMT TRUCKING COMPANY, 1283 Murfreesboro Rd., Nashville, TN 37217. Representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603, 312-236-9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Maremont Corporation, of Nashville, TN, and its subsidiaries (a) Maremont Marketing, Inc., (b) Maremont International Corporation, (c) Maremont Overseas Corporation, (d) Gabriel Europe, Inc., all of Chicago, IL, (e) C & C Manufacturing, Inc., of Rockford, IL, (f) Gabriel of Canada, Ltd., of Toronto, Ontario, Canada, (g) Marwil Products Company, of Fort Loramie, OH, and (h) MMT Transportation Services Company, of Nashville, TN.

Volume No. Op 2-141

Decided: March 23, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing. (Member Carleton not participating.)

MC 116362 (Sub-10), filed March 10, 1983. Applicant: AIME BELLAVANCE & SONS, INC., Boynton St., Barre, VT 05641. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641, 802-476-

6671. Transporting *building materials, equipment and supplies, and machinery*, between points in NH and VT, on the one hand, and, on the other, those points in the U.S. in and the east of ND, SD, NE, CO, OK, and TX.

MC 118783 (Sub-877), filed March 3, 1983. Applicant: CARL SUBLER TRUCKING, INC., P.O. Box 81, Versailles, OH 45380. Representative: Gary J. Jira, P.O. Box 81, Versailles, OH 45380, (513) 526-3121. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraft, Inc., of Glenview, IL.

MC 124263 (Sub-10), filed March 1, 1983. Applicant: SUN MOTOR LINES, INC., P.O. Box 32546, Oklahoma City, OK 73123. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255-6279. Transporting (1) *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in Vanderburgh and Posey Counties, IN, And Greene County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in or used by discount, department, grocery and food business houses, between points in the U.S. (except AK and HI).

MC 138203 (Sub-7), filed March 3, 1983. Applicant: CURTIS BROTHERS TRUCKING COMPANY, INC., Route 12, Box 177 Fredericksburg, VA 22405. Representative: Floyd L. Curtis, (same address as applicant), 703 752-4224. Transporting (1) *lumber and wood products*, between points in VA and NC, on the one hand, and, on the other, points in MD, DE, PA, NJ, NY, WV, SC, GA, OH, and DC; and (2) *clay, concrete, glass or stone products*, between points in VA, on the one hand, and, on the other, points in MD, DE, PA, NJ, NY, WV, OH, SC, NC, GA, and DC.

MC 139243 (Sub-8), filed March 10, 1983. Applicant: RIVER BEND TRANSPORT COMPANY, Sunset Ave., North Bend, OH 45052. Representative: David F. Boehm, 2208 Central Trust Tower, Cincinnati, OH 54202, 513-621-1045. Transporting *such commodities* as are dealt in or used by producers and distributors of salt, between Cincinnati, OH, on the one hand, and, on the other, points in DE, MD, NJ, NY, and VA.

MC 140033 (Sub-106), filed March 1, 1983. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: William Sheridan, P.O. Drawer 5049, 214-255-6279. Transporting *general commodities* (except Class A and B

explosives, household goods and commodities in bulk) between points in U.S. (except AK and HI), under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 140633 (Sub-7), filed March 10, 1983. Applicant: CAPITAL DELIVERY SYSTEMS, INC., P.O. Box 161115, Sacramento, CA 95816. Representative: John F. Parks, III (same address as applicant), 916-929-4702. Transporting *such commodities* as are dealt in or used by retail department stores and catalog mail order houses, between points in CA, NV, and OR, under continuing contract(s) with Montgomery Ward & Co., of San Leandro, CA.

MC 141792 (Sub-3), filed March 8, 1983. Applicant: N & N TRUCKING, INC., P.O. Box 80, Belk, AL 35545. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205, 601-948-8820. Transporting *lumber and wood products and construction materials*, between points in AL, AZ, AR, CA, FL, GA, ID, KY, LA, MS, MT, NC, OR, SC, TX, and WA, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 143043 (Sub-1), filed March 1, 1983. Applicant: WATSON TRUCK LINES, INC., Rte. 2, Box 612, Colfax, LA 71417. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, 817-332-4718. Transporting *food and related products*, between points in AZ, CA, CO, ID, LA, NV, TX, UT, WA, and OR.

MC 151703 (Sub-13), filed March 15, 1983. Applicant: NORSUB, INC., R.D. #1, Box 317, Evans City, PA 16033. Representative: John A. Pillar, 1500 Bank Tower, 307 4th Ave., Pittsburgh, PA 15222, 412-471-3300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with National Can Corporation, of Chicago, IL.

MC 151982 (Sub-2), filed March 9, 1983. Applicant: AMERICAN EAGLE LINE, INC., 11836 Leonard St., Nunica, MI 49448. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616-459-6121. 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 Meijer, Inc., of Grand Rapids, MI.

MC 152602 (Sub-1), filed March 1, 1983. Applicant: HENRY SCHMAELZLE,

111 Quinpiac Ave., North Haven, CT 06473. Representative: Henry Schmaelzle (same address as applicant), 203-773-0332. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, on the one hand, and, on the other, New York, NY, Philadelphia, PA, Baltimore, MD, and points in MA and RI.

MC 152812 (Sub-1), filed March 14, 1983. Applicant: CLINTON L. JESSUP, 5009 Roblee Drive, Upper Marlboro, MD 20780. Representative: Mark D. Russell, Suite 348, Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004-1879, 202-737-2188. Transporting *paper, paper products, and printed matter*, between points in DE, MD, VA, and DC.

MC 153942 (Sub-3), filed March 15, 1983. Applicant: RICHARD A. QUICK AND JAMES C. QUICK, d.b.a. QUICK TRANSPORTATION, P.O. Box 222, 142 So. 8th St., Geneva, NE 68361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, 402-475-6761. Transporting *food and related products, pulp, paper and related products, chemicals and related products, and such commodities as are dealt in or used by grocery stores and supermarkets*, between Omaha, NE, on the one hand, and, on the other, points in FL, IL, IA, KS, MI, MO, TX, and WI.

MC 156333 (Sub-1), filed March 15, 1983. Applicant: PAPA ENTERPRISES, INC., 8009 Wayzata Blvd., Suite 109, St. Louis Park, MN 55424. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612-927-8855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI).

MC 158722 (Sub-2), filed March 15, 1983. Applicant: T.M. DELIVERY SYSTEMS, INC., 40 Carver Ave., Westwood, NJ 07675. Representative: Ronald N. Cobert, 1730 M St. NW, Suite 501, Washington, DC 20036, 202-296-2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158733 (Sub-6), filed March 3, 1983. Applicant: LEONARD FEED & GRAIN, INC., 5511 16th Avenue SW., Cedar Rapids, IA 52404. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515-244-2329. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under

continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 166363, filed March 2, 1983. Applicant: D & E TRUCKING, INC., Rt. 1, Box 192, Columbia, MS 39429. Representative: Terrell Price, 800 Briar Creek Rd., Ste. DD504, Charlotte, NC 28205, 704-372-8212. Transporting *furniture and fixtures*, between points in the U.S. (except AK and HI), under continuing contract(s) with New Orleans Furniture Manufacturing Co., Inc., of Columbia, MS.

MC 166542, filed March 1, 1983. Applicant: LUCAS BERGER TRUCKING, West of City, Mandan, ND 58554. Representative: Dale Berger, Box 417, Mandan, ND 58554, 701-663-7083. Transporting *lumber and wood products*, between points in CA, OR, WA, ID, MT, ND, MN, WI, IL, IN, MI, and OH.

MC 166543, filed March 1, 1983. Applicant: CINOCO TRANSPORT CORPORATION, 4277 River Rd., Cincinnati, OH 45204. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, 614-228-1541. Transporting *bulk commodities*, between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Inland Energy, (b) Cinoco Terminal, Inc., both of Cincinnati, OH, (c) Invesco of West Virginia, Inc., of Duhlow, WV, (d) Invesco International Corporation of Alabama No. 5, of Oden, IN, and (e) Courtland Coal, a Division of Invesco International, of Booneville, KY.

MC 166553, filed March 1, 1983. Applicant: LEE C COOK & DOUGLAS M COOK d.b.a. COOK TRUCKING COMPANY, P.O. Box 390, Emporium, PA 15834. Representative: Lee C. Cook (same address as applicant), 814-486-0312. Transporting *lumber and sawmill products*, between points in Cameron and Jefferson Counties, PA, on the one hand, and, on the other, points in OH, NY, NJ, MA, MD, VA, NC, SC, TN, IN, and IL.

MC 166633, filed March 8, 1983. Applicant: HARPSTER STOCKYARDS, INC., 645 U.S. Rte. 250 East, P.O. Box 235, Ashland, OH 44805. Representative: William A. Nearhood, 221 Church St., Ashland, OH 44805, 419-289-1011. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sugardale Foods, Inc., of Canton, OH, Superior's Brand Meats, Inc., of Massillon, OH, Worthington Packing Company, of Worthington, IN, and G.B.D., Inc., of Warren, OH.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-110.

Decided: March 21, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

W 1344 (Sub-1), filed March 4, 1983. Applicant: LOCKWOOD BROTHERS, INC., P.O. Box 564, Hampton, VA 23669. Representative: Keith G. O'Brien, 1729 H St. NW, Washington, DC 20006, (202) 337-6500. Transporting by non-self-propelled vessels with the use of separate towing vessels, *articles exceeding 19 ft. in height, or 12 ft. in width, or 90 ft. in length, or 100 net tons in weight, component parts thereof, and related equipment*, between ports and points on the Atlantic Coast and tributary waterways from ME to FL, including the Hudson River and the New York State Canal System, under continuing contract(s) with shippers or receivers of oversized industrial equipment.

MC 14125 (Sub-14), filed March 3, 1983. Applicant: PIQUA TRANSFER & STORAGE COMPANY, a corporation, 524 Young St., Piqua, OH 45356. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215-3339, (614) 464-4103. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 143165 (Sub-9), filed March 7, 1983. Applicant: CHARLES W. McCLELLAND, d.b.a. McCLELLAND LUMBER TRANSPORT, P.O. Box 73, Cuba, MO 65453. Representative: Charles W. McClelland (same address as applicant), (314) 885-3332. Transporting *such commodities as are dealt in the used by manufacturers and distributors of metal products*, between points in the U.S. (except AK and HI), under contract(s) with Persing-Ohio Co., of St. Louis, MO.

MC 150404 (Sub-1), filed March 7, 1983. Applicant: ROBERT POWELL, R.R. #1, Chrisman, IL 60924. Representative: Edward D. McNamara, Jr., 907 South Fourth St., P.O. Box 5039, Springfield, IL 62705, (217) 528-8476. Transporting *fertilizer*, between points in IN, IL, MI, OH, and IA.

MC 156424 (Sub-1), filed March 7, 1983. Applicant: T.M.B. TRUCKING COMPANY, 525 Park Ridge Drive, Eau Claire, WI 54701. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *food and related products*, between points in Eau Claire County,

WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160084, filed March 4, 1983. Applicant: LOCKWOOD BROTHERS, INC., P.O. Box 564, Hampton, VA 23669. Representative: Keith G. O'Brien, 1729 H St., NW., Washington, DC 20006, (202) 337-6500. Transporting those *commodities* which because of their size or weight require the use of special handling or equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with shippers or receivers of oversized industrial equipment.

MC 162574 (Sub-1), filed March 4, 1983. Applicant: INTERNATIONAL INVESTMENTS CORP., d.b.a. UNIVERSAL TRUCKING, Route 1, Argonne, WI 54511. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705, (608) 238-3119. Transporting *lumber and wood products, and building materials*, between points in MN, 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 163084 (Sub-1(a)), filed March 2, 1983. Applicant: FIN-A-KEY EXPRESS, INCORPORATED, P.O. Box 80743, Seattle, WA 98108. Representative: Albert Harris Nash, 6719 42nd Ave. So. Seattle, WA 98118, (206) 725-3023. Transporting *spirits, malts and wines*, between points in the U.S.

MC 164114 (Sub-2), filed March 7, 1983. Applicant: NORTH FLORIDA TRANSPORT SERVICE, Route 1, Box 595, Summerfield, FL 32691. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477-1525. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Citro-Mexico, Montemorelos, Nuevo Leon, Mexico, and Borden Inc., of Sulphur Springs, TX.

MC 165765 (Sub-1), filed March 2, 1983. Applicant: ZIPSAN SYSTEMS, INC., 160 Fifth Ave., Rm 604, New York, NY 10010. Representative: Eugene M. Malkin, Two World Trade Center, Suite 1832, New York, NY 10048, (212) 466-0220. Transporting *such commodities* as are dealt in or used by publishers, manufacturers, and distributors of printed matter, between points in the U.S. (except AK and HI).

MC 166464, filed March 1, 1983. Applicant: APEX MOTOR LINES, INC., 4888 Debbie Dr., Medina, OH 44256. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *general*

commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, NJ, PA, OH, WV, MI, IN, KY, WI, IL, and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166565, filed March 1, 1983. Applicant: ALTIM, INC., 1819 Nagawicka Rd., Hartland, WI 53029. Representative: James A. Spiegel, Olde Towne Office Pk., 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting (1) *containers*, between points in the U.S. (except AK and HI), (2) *paper and related products, printed matter, and chemicals and related products*, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (3) *metal products*, between points in WI and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166605, filed March 4, 1983. Applicant: BERNARD WEBER, d.b.a. D'TRUCKING, 3380 Taylor Rd., Central Point, OR 97502. Representative: Bernard Weber (same address as applicant), (503) 864-3628. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR.

MC 166654, filed March 8, 1983. Applicant: IG-LO PRODUCTS CORPORATION, P.O. Box 391, Hernando, MS 38632. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702. Transporting *general commodities* (except household goods, classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlphin Brokerage, Inc., of Decatur, AL.

Volume No. OP3-112.

Decided: March 22, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 2934 (Sub-144), filed March 11, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 No. Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant), (317) 875-1142. Transporting *X-ray equipment and accessories*, between points in the U.S., under continuing contract(s) with Technicare Corporation of Solon, OH.

MC 67024 (Sub-30), filed March 2, 1983. Applicant: SERVICE COACH LINE, INC., 1599 Jackson Street, Dallas,

TX 75201. Representative: G. W. Hanthorn (same address as applicant), (same address as applicant), (214) 655-7937. Over regular routes, transporting *passengers*, between Savannah, GA and Jacksonville, FL; from Savannah over Interstate Hwy 16 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Jacksonville, FL, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route.

MC 117415 (Sub-14), filed March 10, 1983. Applicant: JENSEN TRUCKING CO., INC., P.O. Box 402, American Fork, UT 84003. Representative: Irene Warr, 311 S. State St., UT 84111, (801) 531-1300. Transporting *such commodities* as are dealt in by food business houses and chain stores, between points in the U.S. (except AK and HI).

MC 119864 (Sub-80), filed March 11, 1983. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Rd., Perrysburg, OH 43551. Representative: Brian D. Craig (same address as applicant), (419) 874-7981. 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 140635 (Sub-36), filed March 10, 1983. Applicant: ADAMS LINES, INC., P.O. Box 7343, Omaha, NE 68107. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., N.W., Washington, D.C. 20036, (202) 223-5900. 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 145635 (Sub-3), filed March 11, 1983. Applicant: THOMAS R. REED, d.b.a. RANDLE REED TRUCKING, Rt. 4, Box 50C, Louisville, MS 39339. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722-2848. Transporting *building materials, lumber and wood products*, between points in AL, AR, GA, IL, IN, KY, LA, MI, MO, OH, OK, TN and TX.

MC 161124 (Sub-1), filed March 10, 1983. Applicant: C. TILE TRANSPORTATION, INC., 515 Houston St., P.O. Box 2475, Ft. Worth, TX 76113. Representative: Dean O'Leary (same address as applicant), (817) 870-9632. Transporting *Mercer commodities*, between points in the U.S. (except AK and HI).

MC 163244 (Sub-2), filed March 10, 1983. Applicant: NEW IMAGE

TRANSPORT, INC., 117 Anderson Dr., Monaca, PA 15061. Representative: David M. O'Boyle, 1610 Two Chatham Center, Pittsburgh, PA 15219, (412) 765-1600. 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 Jones & Laughlin Steel Corp. of Pittsburgh, PA and Eighty-Four Lumber Company of Eighty-Four, PA.

MC 184294, filed March 8, 1983. Applicant: RUDDLE TRUCKING, INC., P.O. Box 123, Riverton, WY 26184. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW, Washington, D.C. 20004, (202) 347-8862. Transporting *lumber and lumber products*, between points in KY, IL, IN, TN, OH, VA, MD, PA, NJ, NY, NC, SC, DE, WV, and DC.

MC 184975, filed March 9, 1983. Applicant: T & T TRUCKING, P.O. Box 1146, Mills, WY 82644. Representative: Carnett L. Borden, 4917 S. Abbott Space #6, Casper, WY 82604, (307) 266-4300. Transporting (1) *materials, equipment, and supplies used in and in connection with the exploration, development, extraction, transportation and storage of petroleum, natural gas and their products, and by-products, ores and minerals, and coal and coal products, and by-products, and (2) building materials, construction equipment, and those commodities which because of their size and weight require the use of special handling or equipment*, between points in AZ, CA, CO, ID, KS, LA, MT, ND, NE, NM, NV, OK, SD, TX, UT, WA, and WY.

MC 186675, filed March 9, 1983. Applicant: C. R. WILSON & SONS VAN LINES, INC., 6706 Charles, Shawnee, KS 66216. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110-L, Topeka, KS 66612, (913) 233-9629. Transporting *household goods*, (1) between points in Wyandotte and Johnson Counties, KS, on the one hand, and, on the other, those points in CO on and east of Interstate Hwy 25, those in AR on and north of Interstate Hwy 40, those in OK north of Interstate Hwy 40 and those in MO; (2) between points in Jackson County, MO, on the one hand, and, on the other, those points in CO on and east of Interstate Hwy 25, those in AR on and north of Interstate Hwy 40, those in OK on and north of Interstate Hwy 40, and those in KS; and (3) between Kansas City, MO, on the one hand, and, on the other, those points in NE on and south of Interstate Hwy 80.

MC 186705, filed March 9, 1983. Applicant: JAMES J. FAHEY, d.b.a. JIM

FAHEY MOVING & STORAGE CO., 25 Bauer Place Extension, Westport, CT 06880. Representative: Robert E. Pedersen, One Wall St., 34th Fl., New York, NY 10005, (212) 344-5680. Transporting (1) *household goods*, (2) *furniture and fixtures*, and (3) *office equipment, supplies and appliances*, between points in CT and NY, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, and DC.

MC 186714, filed March 10, 1983. Applicant: ANIMAL SPECIALTIES, P.O. Box 328, Hubbard, OR 97032. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228-3807. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OR and WA.

MC 186715, filed March 10, 1983. Applicant: HORIZON TRANSPORTATION CO., 1125 Fairfield NW, Grand Rapids, MI 49504. Representative: James T. Darby, 1021 Irving Ave., Colonial Beach, VA 22443, (804) 224-0773. Transporting (1) *machinery*, between points in the U.S. (except AK and HI); and (2) *building materials, boats, and sporting goods*, between points in FL, GA, LA, NC, SC, MI, MN, MO, KY, WI, IA, IL, IN, OH, WV, VA, PA, DE, NY, NJ, CT, RI, MA, VT, NH, ME, and DC.

MC 186744, filed March 11, 1983. Applicant: ROAD SHOWS, INC., d.b.a. R S EXPRESS, 39 Dale St., Medfield, MA 02052. Representative: Edward F. Bowes, P. O. Box Y-7 Becker Farm Rd., Roseland, NJ 07068, (201) 992-2200. Transporting *theatrical scenery, costumes, and commodities used in the staging and presentation of theatrical productions*, between points in the U.S. (except AK and HI).

MC 186754, filed March 11, 1983. Applicant: WESTERN TRUCKING COMPANY, INC., R. R. 1, Box 428, Culbertson, NE 69024. Representative: Max H. Johnston, P. O. Box 6597, Lincoln, NE 68506, (402) 488-4841. Transporting *such commodities as are used by and dealt in by agricultural machinery and implement dealers*, between points in CO, IL, IA, LA, KS, MO and NE, on the one hand, and, on the other, points in CO, IL, KS, MO, IA and NE.

Volume No. OP3-119.

Decided: March 22, 1983.

By the Commission, Review Board No. 3, Members Parker, Joyce, and Dowell.

MC 2934 (Sub-145), filed March 11, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North

Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant), (317) 875-1142. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Burlington Northern Railroad, of St. Paul, MN.

MC 41905 (Sub-7), filed March 10, 1983. Applicant: ILLINI-SWALLOW LINES, INC., 118-120 S. Walnut St., P.O. Box 775, Champaign, IL 61820. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202) 466-3892. Over *regular routes*, transporting *passengers*, (1) Between Peoria, IL, and Rock Island, IL: (a) From Peoria over Interstate Hwy 74 to junction IL Hwy 92, then over IL Hwy 92 to Rock Island, and (b) From Peoria over Interstate Hwy 74 to junction Interstate Hwy 280, then over Interstate Hwy 280 to junction U.S. Hwy 67, and then over U.S. Hwy 67 to Rock Island, and return over the same routes, serving the off-route points of Galesburg and Quad City Airport, IL, and (2) Between Davenport, I-A, and junction Interstate Hwy 74 and Interstate Hwy 280, near Moline, IL: (a) From Davenport over U.S. Hwy 61 to junction U.S. Hwy 67, then over U.S. Hwy 67 junction Interstate Hwy 280, and then over Interstate Hwy 280 to junction Interstate Hwy 74, near Moline, and return over the same route, serving the off-route point of Quad City Airport, IL, and (b) From Davenport over U.S. Hwy 61 to junction U.S. Hwy 67, then over U.S. Hwy 67 to junction Hwy 92, then over IL Hwy 92 to junction Interstate Hwy 74, and then over Interstate Hwy 74 junction Interstate Hwy 280, near Moline, and return over the same route, serving all intermediate points in (1)(b) through (2)(b) above. Condition: Issuance of a certificate in this proceeding is conditioned upon the grant and issuance of a certificate(s) in pending proceeding(s) No. MC-41905 (Sub-No. 6), which will be superseded by the certificate issued in this proceeding. Failure to be granted and issued authority in the indicated proceeding shall render any grant of pertinent intrastate authority in this proceeding null and void.

Note.—(1) Applicant intends to tack this authority with its existing regular-route authority and the authority in its pending application in MC-41905 Sub 6; and

(2) Applicant seeks to provide to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

MC 67234 (Sub-83), filed March 11, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO

63026. Representative: B. E. LaTourette, Jr., 11 South 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 Burlington Northern, Inc., and its subsidiaries, of St. Paul, MN.

MC 158785 (Sub-2), filed March 10, 1983. Applicant: CORNPATCH EXPRESS, INC., P.O. Box 387, Ayrshire, IA 50515. Representative: Larry Ruston (same address as applicant), (712) 426-4100. Transporting *food and related products*, between points in IA and MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163525, filed March 11, 1983. Applicant: K LINES, INC., P.O. Box 186, Union City, GA 30291. Representative: Kim G. Meyer, 1006 South Tower, 225 Peachtree St., N.E., Atlanta, GA 30343, (404) 523-1717. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of WI, IL, MO, AR, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164384, filed March 11, 1983. Applicant: A. H. CHANEY, INC., 9900 Woody Dr., El Paso, TX 79925. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768, (512) 476-6391. Transporting (1) *commodities in bulk*, between points in AZ, NM, OK, and TX, (2) *lumber and wood products and building materials* (except lumber and wood products), between points in AR, AZ, CO, KS, LA, MS, MO, NM, OK, and TX, and (3) *metal products and building materials*, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166755, filed March 11, 1983. Applicant: RITEWAY TRANSFER, INC., 2131 West Roosevelt, Phoenix, AZ 85009. Representative: Robert R. Digby (same address as applicant), (602) 258-6851. 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 RiteWay Overnight Transport, Inc., of Phoenix, AZ.

For the following, please direct status calls to Team 4 at 202-275-7669.

Vol. No. OP4-178.

Decided: March 23, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 4426 (Sub-6), filed February 28, 1983, previously noticed in the Federal

Register issue of March 14, 1983, and republished in this issue. Applicant: M & T TRANSPORT, INC., 7391 Richmond Rd., P.O. Box 292, East Syracuse, NY 13057. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472-8845. Transporting *such commodities* as are dealt in or used by telephone companies, between points in the U.S. (except AK and HI), NJ, under continuing contract(s) with New York Telephone Company, of East Syracuse, NY, and Western Electric Co., Inc., of Newark, NJ.

Note.—The purpose of this republication is to correct the territorial description.

MC 40757 (Sub-24), filed March 17, 1983. Applicant: CREECH BROTHERS TRUCK LINES, INC., 100 Industrial Drive, Troy, MO 63379. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 65105, (816) 221-1464. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI).

MC 42487 (Sub-1069), filed March 14, 1983. Applicant: CONSOLIDATED FREIGHTWAYS, CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226-4692. 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 Mobay Chemical Corporation, of Pittsburgh, PA.

MC 61016 (Sub-63), filed March 15, 1983. Applicant: PETER PAN BUS LINES, INC., 1779 Main St., Springfield, MA 01103. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781-8205. Over regular routes, transporting *passengers*, between (1) Greenfield and Deerfield, MA, over Interstate Highway 91 and U.S. Highway 5, (2) Greenfield and Williamstown, MA, over Massachusetts Highway 2, (3) Williamstown and Pittsfield, MA, over U.S. Highway 7, (4) North Adams and Pittsfield, MA, over Massachusetts Highway 8, (5) Boston, MA, and Hampton, NH, from Boston over U.S. Highway 3 to junction U.S. Highway 1, then over U.S. Highway 1 to junction Interstate Highway 95, then over Interstate Highway 95 to Hampton, and (6) Springfield, MA, and Hampton, NH, from Springfield (a) over Interstate Highway 291 to junction Interstate Highway 90, over Interstate Highway 90 to junction Interstate Highway 290, then over Interstate Highway 290 to junction Interstate Highway 95, then over

Interstate Highway 95 to Hampton, and (b) over Interstate Highway 291 to junction Interstate Highway 90, then over Interstate Highway 90 to junction Massachusetts Highway 128, then over Massachusetts Highway 128 to junction Interstate Highway 95, then over Interstate Highway 95 to Hampton, and return over all the above-specified routes, serving all intermediate points.

Note.—Applicant intends to tack the above authority to its present authorized operations and seeks to provide regular route service in interstate or foreign commerce, and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B), over the same routes.

MC 126196 (Sub-21), filed March 16, 1983. Applicant: BLACHOWSKIE TRUCK LINE, INC., RR No. 1, Box 530, Fairmont, MN 53031. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001, (319) 557-1320. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 144757 (Sub-28), filed March 7, 1983. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701 (605) 343-4036. Transporting (1) *general commodities*, between (a) Richmond, IL, Genoa City, Lake Geneva and Pell Lake, WI, (b) Bear Creek, Clintonville, and Sugar Bush, WI, (c) Arlington, Belview, Boyd, Clarkfield, Dawson, Delhi, Echo, Fairfax, Franklin, Gaylord, Gibbon, Green Isle, Hamburg, Hazel Run, Madison, Morton, Redwood, Winthrop, and Wood Lake, MN, (d) Beechwood, Caspian, Elmwood, Gegebic, Hazel, Iron River, Marinessco, Naultz, Pentoga, Scott Lake, Stager, Stambaugh, Stickley, Thayer and Watersmeet, MI, and Florence, Hematitite, Ridgetop and Spread Eagle, WI, (e) Algonquin, Carpentersville, and Dundee, IL, (f) Halbur, IA, (g) Solitude and Wadesville, IN, (h) Bannister Spur, Belfast, Detonti, and Sheridan, AR, (i) Archibald, Baskin, Chase, Manghan, Oak Ridge, Peck, Sicily Island, Winnsboro and Wisner, LA, (j) Avoca, NE, (k) Doniphan, Naylor and Oxly, MO, (l) Liverpool, IL, (m) Bedford, Clearfield, Conway, Kent, Lenox and Merle, IA, and Hopkins and Pickering, MO, (n) Irl, Octa and Senath, MO, (o) Ithaca, Malmo, Memphis and Pregue, NE, (p) Burwell, Cushing, Elyria, Greeley Center, and Wolbach, NE, (q) Aloha, Copalis, and Tulips, WA, (r) Henderson, IA, (s) Eleanor, Fry, Gravelles and Omans, WA, (t) Fairbanks, WA, (u) Dunreith, Mays, Sexton and Spiceland, IN, (v) Butternut, Eureka Place, Millers, Sheridan and Vickeryville, MI, (w) Prince, NV, (x)

Archer, Calumet, Edna, Gaza, George, Larabee, Matlock, Pringhar, and Rock Rapids, IA, Steen, MN, and Benclare and Rowena, SD, (y) Cache, Hodges Park, King, Sandusky, and Tamms, IL, (z) Dewey, Dickerson, Fisher, Prospect, and Tomlinson, IL, (aa) Pryors, Water Valley and Wingo, KY, (bb) Cargray and Skellytown, TX, (cc) Silver City, NM, (dd) Palmertown, CT, (ee) Lynwood, CA, (ff) Cashton, Melvina, Viroqua and Westby, WI, (gg) Big Bend, Cheraw, Keesee, and McClave, CO, (hh) Parkdale, OR, (ii) Ferguson, Pitts, Quarry Junction, and West Oberlin, OH, (jj) Clements, and Durupt, ND, (kk) Coalinga, CA, (ll) Barnes City, Gibson, Kalona, Keswick, Kinross, Montezuma, Old Man's Creek Bridge, Riverside, South English, Webster, Thornburg, and Wellman, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *lumber and wood products*, between points in SD and WY, on the one hand, and, on the other, points in CO, FL, ID, IL, IN, IA, KS, KY, MI, MN, MS, MT, NE, NY, ND, OH, OK, PA, SD, TX, UT, WI and WY.

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this Federal Register issue. Part (1) will be published in Vol #178, and Part (2) will be published in Vol #179.

Condition: Issuance of a certificate in Part (1) of this application is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at the specified points. The certification should be sent to Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423. To the extent the service in Part (1) authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its issue date.

MC 145126 (Sub-3), filed March 17, 1983. Applicant: JERRY D. MARTIN d.b.a. MARTIN TRUCKING CO., 1300 S. Erie St., Massillon, OH 44646. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889-2531. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164996 (Sub-2), filed March 18, 1983. Applicant: M.D. TRUCKING, INC., 1855 Feddern Ave., Grove City, OH 43123. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228-8575. Transporting *auto parts; metal products; machinery and building materials*, between points in GA and SC, on the one hand, and, on the other, those points in NY on and east of Interstate Hwy 81, and points in OH, IN,

IL, MI, VA, KY, WV, PA, TN, NC, and MD.

MC 166037, filed March 15, 1983. Applicant: TOMAHAWK TRUCKING, INC., Rt. 1, Box 135, Harrells, NC 28444. Representative: Walter Jernigan (same address as applicant), (919) 529-3921. Transporting *textile mill products*, between points in Robeson County, NC, on the one hand, and, on the other, points in GA, LA, VA, NJ, NY, CT, and SC.

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-132.

Decided: March 22, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 166199, filed February 9, 1983. Published initially in the Federal Register on March 3, 1983. Applicant: SIOUX TANK LINE, INC., Highway 10 West, P.O. Box 136, Orange City, IA 51041. Representative: George L. Hirschbach, 920 West 21 St., P.O. Box 155, South Sioux City, NE 68776, (402) 494-5466. Transporting *commodities in bulk*, between points in IL, IA, KS, MN, MO, NE, and SD.

Note.—This application is republished to include NE.

Volume No. OP5-133.

Decided: March 21, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 108449 (Sub-420), filed March 9, 1983. Applicant: INDIANHEAD TRUCK LINE INC., P.O. Box 43355, St. Paul, MN 55164. Representative: W. A. Myllenbeck (Same address as applicant), (612) 633-2661. Transporting *petroleum, natural gas, and their products, and chemicals and related products*, between points in the U.S., under continuing contract(s) with Ashland Oil, Inc., of Ashland, KY.

Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. § 11343(e) seeking an exemption from the requirements of 49 U.S.C. § 11343, (2) file an application under 49 U.S.C. § 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of this filing to Team 5, Room 2414.

MC 134258 (Sub-6), filed March 8, 1983. Applicant: RALPH'S TRANSPORT LTD., 5 Seaton Street, Saint John, New Brunswick, Canada E2J 2A7. Representative: John C. Lightbody, 30

Exchange Street, Portland, ME 04101, (207) 773-5651. Transporting in foreign commerce, *commodities in bulk*, between ports of entry on the international boundary line between the United States and Canada in ME, on the one hand, and, on the other, points in ME.

MC 146448 (Sub-35), filed March 11, 1983. Applicant: C & L TRUCKING, INC., U.S. Highway 64, P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893-4924. 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 153758 (Sub-6), filed February 22, 1983. Applicant: STEPHEN B. LAMPMAN d.b.a. LAMPMAN TRANSPORTATION, 4233 West Sierra Madre, Fresno, CA 93711. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting (1) *food and related products* between points in CA, NJ, NY, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *Rubber and related products* between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159718 (Sub-1), filed March 8, 1983. Applicant: BULK TRANSPORT CO. OF ESSEXVILLE, INC., 1500 Pine St., Essexville, MI 48732. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685-0801, (616) 941-5313. Transporting *Chemicals and related products, and rubber and plastic products*, between points in the U.S. (except AK and HI).

MC 162799 (Sub-1), filed March 8, 1983. Applicant: MISSOURI COMMERCIAL TRANSPORTATION CO., 1948 Northwest Bypass, Springfield, MO 65803. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804, D(417) 883-7311. Transporting *clay, concrete, glass or stone products*, between points in Linn and Montgomery Counties, KS, and Rogers County, OK, on the one hand, and points in Christian, Dallas, Greene, Lawrence, Polk, Stone, Taney, and Webster Counties, MO.

MC 164598, filed March 11, 1983. Applicant: CHAMBLESS ENTERPRISES, P.O. Box 386, Texarkana, AR 75504. Representative: William R. Chambliss (same address as applicant), (501) 772-0266. Transporting *General commodities* (except classes A and B explosives, household goods and commodities in

bulk), between Memphis, TN and points in AR, LA, OK, and TX.

MC 166578, filed March 2, 1983. Applicant: RUSSELL H. BELLIS, SR. d.b.a. RUSSELL BELLIS TRUCKING, Wantage Ave., P.O. Box 295, Branchville, NJ 07826. Representative: Peter J. Laemers, 1 Main St., P.O. Box 87, Newton, NJ 07860, (201) 383-2700. Transporting *ores and minerals and clay, concrete, glass, or stone products*, between points in Sussex and Middlesex Counties, NJ, on the one hand, and, on the other, points in NJ, NY, VA, PA, CT, MA, MD, RI, NH, ME, DE, VT, and DC, under continuing contract(s) with Limestone Products Corporation, of Sparta, NJ.

MC 166729, filed March 11, 1983. Applicant: BILLY EUGENE DOUTHIT, d.b.a. PAT'S PRODUCE, Route 2-Box 22, Lawton, OK 73501. Representative: Billy Eugene Douthit (same address as applicant), (405) 248-8881. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mid West Commodity Export Services, Inc., of Naples, FL.

Volume No. OP5-135

Decided: March 22, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF-678, filed March 14, 1983. Applicant: ROSLYN FORWARDERS, INC., 1598 Cunningham Road, Sebastopol, CA 95472. Representative: Kenneth S. Ross (same address as applicant), (707) 823-6364. As a freight forwarder, in connection with the transportation of *household goods, baggage and automobiles*, between points in the U.S.

MC 31389 (Sub-341), filed March 14, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons (same address as applicant), 919-721-2433. 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 Duraco Products, Inc., of Streamwood, IL.

MC 79658 (Sub-62), filed March 7, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), (812) 424-2222. Transporting *computer systems and computer systems supplies*, between points in the U.S. (except AK and HI), under continuing contract(s) with Comdisco, Inc., of Rosemont, IL.

MC 81908 (Sub-21), filed March 11, 1983. Applicant: GARNER TRUCKING, INC., P.O. Box 1004, Findlay, OH 45840. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, 614-464-4103. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 106599 (Sub-5), filed March 11, 1983. Applicant: MARTIN TRUCK LINE, INC., 520 Madison, Kansas City, MO 64105. Representative: John T. Pruitt, 9832 Connell, Overland Park, IL 66212, 913-888-3386. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in Mississippi, Scott, Stoddard, and New Madrid Counties, MO and Alexander County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 112539 (Sub-26), filed March 8, 1983. Applicant: PERCHAK TRUCKING, INC., P.O. Box 811, Hazleton, PA 18201. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, 717-344-8030. Transporting *food and related products*, between points in Onondago County, NY on the one hand, and, on the other, points in Luzerne County, PA.

MC 136818 (Sub-143), filed March 11, 1983. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 5601 W. Moheve, Phoenix, AZ 85031. Representative: Donald E. Fernaays, 2619 N. 50th Pl., Phoenix, AZ 85008, 602-952-1560. 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 155838 (Sub-1), filed February 22, 1983. Applicant: BETTY L. PATRICK AND BOB J. TEMPLETON, d.b.a. IRISH & CHEROKEE, 521 Sterling Rd., Bakersfield, CA 93306. Representative: John C. Russell, 1545 Wilshire Boulevard, Suite 606, Los Angeles, CA 90017, (213) 483-4700. Transporting (1) *lumber and wood products*, between points in AL, MS, AR, OK, MT, ID, and MO, on the one hand, and, on the other, points in TX, KS, AR, FL, MO, NE, IL, and IA, and (2) *building materials, Mercer commodities, and pipe, casing, couplings, and thread protectors*, between points in CA, OR, CO, GA, and TX, on the one hand, and, on the other, points in CA, OR, WA, AZ, UT, CO, NM, KS, MO, LA, MS, AR, OK, AL, GA, FL, NC, SC, VA, WV, MD, PA, MI, OH, IN, IL, IA, NE, KY, MA, MN, NY, ND, SD, TN, WI, TX, and FL.

MC 166179 (Sub-1), filed March 4, 1983. Applicant: ALLPOINTS

DISTRIBUTION CENTERS, INC., 711 Jorie Blvd., Oakbrook, IL 60521. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263-1600. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with The Continental Group, Inc., of Stamford, CT, and its subsidiaries. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. § 11343(e) seeking an exemption from the requirements of 49 U.S.C. § 11343, (2) file an application under 49 U.S.C. § 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 5, Room 2414.

MC 166688, filed March 4, 1983. Applicant: JOHN KNOBEL & SON, 115 East Spring St. Freeport, IL 61032. Representative: James G. Madden, 222 West Exchange St., Freeport, IL 61032, 815-235-1196. Transporting *beer*, between Milwaukee, WI, on the one hand, and, on the other, Rockford, IL, under continuing contract(s) with Blue Ribbon Distributors of Rockford, Inc., of Rockford, IL.

MC 166748, filed March 11, 1983. Applicant: WILDWOOD INDUSTRIES, INC., 409 S. Center, Bloomington, IL 61701. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, 703-522-0900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with the Mead Corporation, of Dayton, OH, its subsidiaries and affiliates.

MC 166778, filed March 14, 1983. Applicant: NORTH AMERICAN SMELTING CO., INC., Marine Terminal P.O. Box 2048, Wilmington, DE 19899. Representative: William D. Gallagher (Same address as applicant), 302-654-9901. Transporting *aluminum products*, between points in the U.S. (except AK and HI), under continuing contracts with Cressona Aluminum Company, of Cressona, PA.

[FR Doc. 83-6130 Filed 3-29-83; 8:45am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the *Federal Register*, on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100, 251, published in the *Federal Register*, on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the *Federal Register*, on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to

exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operator as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-138

Decided: March 22, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Carleton not participating.)

MC 135252 (Sub-2), filed March 7, 1983. Applicant: THOMAS JACK WOODBURN, d.b.a. QUALITY TRANSFER & STORAGE CO., Rt. 235 North, Box 97, Lexington Park, MD 20653. Representative: Thomas Jack Woodburn (same address as applicant), 301-882-2331. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 150513, filed February 22, 1983. Applicant: ASHLEY TRAVEL, INC., 221 State St., Ashley, IN 46705. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg.,

Indianapolis, IN 46204, 317-635-2339. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166583, filed March 3, 1983. Applicant: KENT AND SON TRANSPORTATION, INC., 308 King St., P.O. Box 209, Olean, NY 14760. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, 216-652-2789. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2-140

Decided: March 23, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Carleton not participating.)

MC 144803 (Sub-1), filed March 8, 1983. Applicant: LASSITER BUS SERVICE, INC., 3400 Nansemond Parkway, Suffolk, VA 23435. Representative: Frank L. Willard, Suite #1001, First & Merchants National Bank Bldg., Norfolk, VA 23510, 804-627-0070. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166632, filed March 8, 1983. Applicant: WILLIAM LEE, d.b.a. L & H TOURS, 346 W. 68th St., Los Angeles, CA 90003. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, 714-667-8107. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166643, filed March 8, 1983. Applicant: AUTOCAR CONNAISSEUR, INC., 433 St. Martin, Montreal, Quebec, Canada H3J 1W1. Representative: Martineau Walker, 3400 The Stock Exchange Tower, P.O. Box 242, Montreal, Quebec, Canada H4Z 1E9, 514-395-3839. Transporting *passengers*, in special and charter operations, beginning and ending at ports of entry on the international boundary line between the U.S. and Canada in ME, NH, VT, NY, and MI, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166652, filed March 8, 1983.
Applicant: AMERICAN COACH TRAVEL, INC., 1116 Carriage Lane, New Albany, IN 47150. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, 703-522-0900. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

For the following, please direct status calls to Team 3 at 202-275-5223.

Vol. No. OP3-109

Decided: March 21, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 166685, filed March 7, 1983.
Applicant: BULLIT COURIER SERVICE, INC., 233 West 42nd Street, New York, NY 10036. Representative: Charles Moran, Suite 320, 2501 M Street NW., Washington, DC 20037, (202) 737-7661. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163084 (Sub-1(b)), filed March 2, 1983. Applicant: FIN-A-KEY EXPRESS INCORPORATED, P.O. Box 80743, Seattle, WA 98108. Representative: Albert Harris Nash, 6719 42nd Ave. So., Seattle, WA 98118, (206) 725-3023. Transporting, for or on behalf of the United States Government, *general commodities*, (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 166665, filed March 8, 1983.
Applicant: STRUNK TRANSPORTATION, 104 South Pomeroy, Sidney, OH 45365. Representative: James T. Darby, 1021 Irving Avenue, Colonial Beach, VA 22443, (804) 224-0773. 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) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, and (4) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate

service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Volume No. OP3-114

Decided: March 22, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 745 (Sub-3), filed March 7, 1983.
Applicant: HAGEY'S BUS SERVICE, INC., P.O. Box 68, Franconia, PA 18924. Representative: J. Bruce Walter, P.O. Box 1148, Harrisburg, PA 17108, (717) 233-5731. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 67024 (Sub-30(a)), filed March 2, 1983. Applicant: SERVICE COACH LINE, INC., 1500 Jackson Street, Dallas, TX 75201. Representative: G. W. Hanthorn, 1500 Jackson Street, Dallas, TX 75201, (214) 655-7937. Transporting (1) *passengers* in charter or special operations between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation; and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 166584, filed March 2, 1983.
Applicant: MANSUN NORTH, INC., Box 154, Hyde, PA 16843. Representative: Dwight L. Koerber, Jr., 110 No. Second St., P.O. Box 1320, Clearfield, PA 16830, (814) 765-9611. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166635, filed March 7, 1983.
Applicant: JOFAZ TRANSPORTATION, INC., 72 Huntington St., Brooklyn, NY 11231. Representative: Norman Turk, 225 Broadway, New York, NY 10007, (212) 619-1540. Transporting *passengers*, in charter and special operations, between the Borough of Brooklyn, NY, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166664, filed March 7, 1983.
Applicant: OUTDOOR ADVENTURES, INC., 304 Lower Creek Dr., Lenoir, NC 28645. Representative: Ruth Sevier Foster (same address as applicant) (704) 758-1182. Transporting *passengers*, in charter and special transportation,

between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 166684, filed March 9, 1983.
Applicant: JOSEPH J. REARDON, d.b.a. REARDON TRANSPORTATION COMPANY, 124 Lilac Circle, Greenwood, IN 46142. Representative: (same as applicant) (317) 882-1453. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166695, filed March 10, 1983.
Applicant: JOSEPH A. RONGO, 6 Vee Jay Dr., Shoreham, NY 11786. Representative: Joseph F. Stern, 17 Bradley Dr., Shoreham, NY 11786, (516) 821-1365. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166704, filed March 10, 1983.
Applicant: RONALD H. WELCH, d.b.a. RON WELCH & SONS TRUCKING, RR 1, Box 54A, Menomonee, WI 54751. Representative: Ron Welch (same address as applicant), (715) 235-5769. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166775, filed March 14, 1983.
Applicant: LUXTRAN, INC., 3542 Knox Ave. No., Minneapolis, MN 55412. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *passengers*, in charter and special operations, beginning and ending at points in IA, IL, MN, ND, SD, and WI and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP3-118

Decided: March 22, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 1745 (Sub-19), filed March 11, 1983. Applicant: INTERSTATE VAN LINES, INC., 5801 Rolling Road, West Springfield, VA 22152. Representative: Marshall Kragen, 1919 Pennsylvania Avenue NW., Suite 300, Washington, D.C. 20006, (202) 466-3778. Transporting (1) *passengers*, in special and charter operations, between points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which

no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) *used household goods*, for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 150084 (Sub-6), filed March 11, 1983. Applicant: PRIDE TRANSPORT, 1102 W. 2100 So., Salt Lake City, UT 84104. Representative: D. Jeffrey England (same address as applicant), (801) 972-8890. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 166745, filed March 11, 1983. Applicant: MARKETING AND MANAGEMENT TRANSPORTATION SERVICE, d.b.a. M & M TRANSPORTATION SERVICE, 4868 Moreland Ave., P.O. Box 236, Ellenwood, GA 30049. Representative: James T. Myers, 266 Moseley Rd., Stockbridge, GA 30281, (404) 361-5846. As a *broker of general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 4 at 202-275-7669.

Vol. No. OP4-179

Decided: March 23, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 144757 (Sub-28), filed March 7, 1983. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343-4036. Transporting (1) *general commodities*, between (a) Richmond, IL, Genoa City, Lake Geneva and Pell Lake, WI, (b) Bear Creek, Clintonville, and Sugar Bush, WI, (c) Arlington, Belview, Boyd, Clarkfield, Dawson, Delhi, Echo, Fairfax, Franklin, Gaylord, Gibbon, Green, Isle, Hamburg, Haxel Run, Madison, Morton, Redwood, Winthrop, and Wood Lake, MN, (d) Beechwood, Caspian, Elmwood, Gegebic, Hazel, Iron River, Marinesco, Naultz, Pentoga, Scott Lake, Stager, Stambaugh, Stickley, Thayer and Watersmeet, MI, and Florence, Hematite, Ridgetop and Spread Eagle,

WI, (e) Algonquin, Carpentersville, and Dundee, IL, (f) Halbur, IA, (g) Solitude and Wadesville, IN, (h) Bannister Spur, Belfast, Detonti, and Sheridan, AR, (i) Archibald, Baskin, Chase, Manghan, Oak Ridge, Peck, Sicily Island, Winnsboro and Wisner, LA, (j) Avoca, NE, (k) Doniphan, Naylor and Oxly, MO, (l) Liverpool, IL, (m) Bedford, Clearfield, Conway, Kent, Lenox and Merle, IA, and Hopkins and Pickering, MO, (n) Irl, Octa and Senath, MO (o) Ithaca, Malmo, Memphis, and Prague, NE, (p) Burwell, Cushing, Elyria, Greeley Center, and Wolbach, NE, (q) Aloha, Copalis, and Tulips, WA, (r) Henderson, IA, (s) Eleanor, Fry, Gravelles and Omans, WA, (t) Fairbanks WA, (u) Dunreith, Mays, Sexton and Spiceland, IN, (v) Butternut, Eureka Place, Millers, Sheridan and Vickeryville, MI, (w) Prince, NV, (x) Archer, Calumet, Edna, Gaza, George, Larrabee, Matlock, Primghar, and Rock Rapids, IA, Steen, MN, and Benclare and Rowena, SD, (y) Cache, Hodges Park, King, Sandusky, and Tamms, IL, (z) Dewey, Dickerson, Fisher, Prospect, and Tomlinson, IL, (aa) Pryors, Water Valley and Wingo, KY, (bb) Cargray and Skellytown, TX, (cc) Silver City, MN, (dd) Palmertown, CT, (ee) Lynwood, CA, (ff) Cashton, Melvina, Viroqua and Westby, WI, (gg) Big Bend, Cheraw, Keese, and McClave, CO, (hh) Parkdale, OR, (ii) Ferguson, Pitts, Quarry Junction, and West Oberlin, OH, (jj) Clements, and Durput, ND, (kk) Coalinga, CA, (ll) Barnes City, Gibson, Kalona, Keswick, Kinross, Montezuma, Old Man's Creek Bridge, Riverside, South English, Webster, Thornburg, and Wellman, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *lumber and wood products*, between points in SD and WY, on the one hand, and, on the other, points in CO, FL, ID, IL, IN, IA, KS, KY, MI, MN, MS, MT, NE, NY, ND, OH, OK, PA, SD, TX, UT, WI and WY. Condition: Issuance of a certificate in Part (1) of this application is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at the specified points. The certification should be sent to Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423. To the extent the service in Part (1) authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its issue date.

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this Federal Register issue.

Part (1) will be published in Vol. No. 178, and Part (2) will be published in Vol. No. 179.

MC 166857, filed March 17, 1983. Applicant: JOHN W. CRUDUP, d.b.a., J. W. CRUDUP TRUCKING, 4100 West Liberty, Oklahoma City, OK 73107. Representative: B. S. Nelson, 1001 Connecticut Ave. NW No. 838, Washington, DC 20036, (202) 296-2550. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverage and drugs), *agricultural limestone and fertilizers*, and *other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166876, filed March 18, 1983. Applicant: KENNETH CARLISLE, Rt. 1, Box 208, Lilbourn, MO 63862. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332-4718. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer*, and *other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI). Agatha L. Mergenovich, Secretary.

(FR Doc. 83-8119 Filed 3-29-83; 8:45 am)
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the *Federal Register* of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, December 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this

decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Agatha L. Mergenovich,
Secretary.

(Member Carleton participating in part.)

Volume No. OP1-100

Decided: March 23, 1983.

For status, please call Team 1 at 202-275-7992.

MC 39140 (Sub-182)X, filed February 28, 1983. Applicant: A. DUKE PYLE, INC., P.O. Box 564, West Chester, PA 19380. Representative: Alan Kahn, 14030 Land Title Bldg., Philadelphia, PA 19110. Lead and Sub 176 certificates: (1) broaden (a) general commodities with the usual exceptions and livestock (lead) and general commodities with the usual exceptions (Sub 176) to "general commodities (except classes A and B explosives, household goods and commodities in bulk)"; (b) feed and grain (lead) to "farm products"; (c) poles (lead) to "lumber and wood products"; (d) salt (lead) to "ores and minerals"; (e) trees and shrubs (lead) to "forest products"; (f) fertilizer (lead) to "chemicals and related products"; (g) tents and tent materials (lead) to "textile mill products"; (h) road equipment and parts (lead) to "machinery and those commodities which because of size and weight require the use of special handling or equipment"; (i) iron and steel (lead) to "metal products"; (j) iron and steel products requiring specialized handling or rigging because of size or weight (lead) to "those commodities which because of size or weight require the use of special handling or equipment"; (k) household goods (lead) to "household goods and furniture and fixtures"; (l) foodstuffs (except in bulk) (Sub 176) to "food and related products"; and (m) iron and steel and iron and steel products requiring specialized handling or rigging because of size or weight (Sub 176) to "metal products and those commodities which because of their size or weight require the use of special handling or equipment"; (2) allow services to all intermediate points, and change one-way irregular routes to radial authority (lead and Sub 176); (3) replace plantsite and city-wide authority with county-wide authority (irregular routes); Wilmington and Newport, DE (New Castle County); Trenton, NJ (Mercer County); West Chester, Kennett Square,

Eagle, Coatesville, Downingtown, Phoenixville, PA (Chester County); Salisbury, MD (Wicomico County); Bethlehem, PA (Lehigh and Northampton Counties); Amityville, L.I., NY (Suffolk County); Irvington, NJ (Union County); Chester, PA (Delaware County); Paulsboro, Carneys Point, Carteret and Dover, NJ (Gloucester, Salem, Union and Morris Counties); Harrisburg, PA (Dauphin County); Astoria, L.I., NY (Queens County); Kutztown, PA (Berks County); Parlin, NJ (Middlesex Counties); Newark, Perth Amboy, Camden and Atlantic City, NJ (Essex, Middlesex, Camden and Atlantic Counties); Southington and Stamford, CT (Hartford and Fairfield Counties); Conshohocken, PA (Montgomery County); Eddystone, PA (Delaware County); Annapolis, MD (Anne Arundel County); Carlstadt, NJ (Bergen County); Elizabeth, NJ (Union County); West Sadsbury, PA (Chester County); Fairless, PA and points within three miles thereof (Bucks County); and Buffalo, NY (Erie County) (lead and Sub 176); (4) expand off-route points to county-wide authority (a) points in MD within 10 miles of Rising Sun (Cecil County); and (b) points in PA within 10 miles of Oxford, PA (Chester County and points in PA within 10 miles of Oxford) (Sub 176); and (5) remove the restriction against combining regular route authority with carrier's otherwise authorized operations (lead); and the facilities restriction in Sub 176.

MC 142791 (Sub-2)X, filed March 11, 1983. Applicant: GEORGE PRYSLAK, d.b.a. PRYSLAK TRUCKING, Box 149, Great Meadows, NJ 07838. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551. Lead permit: broaden the territorial description to between points in the U.S. (except AK and HI), under continuing contract(s) with named shipper.

For status, please call Team 3 at 202-275-5223.

Volume No. OP3-108

Decided: March 21, 1983.

MC 105334 (Sub-4)X, filed March 8, 1983. Applicant: TENNYSON TRANSFER & STORAGE, INC., P.O. Box 7066, Boise, ID 83707. Representative: W. L. Woolley (same address as applicant). Sub 3F certificate: Broaden (1) one-way authority to radial authority, and (2) to countywide authority: Boise, ID (Ada County).

For status, please call Team 3 at 202-275-5223.

Volume No. OP3-112 (X)

Decided: March 22, 1983.

MC 152014 (Sub-2)X, filed March 1, 1983. Applicant: MARSHALL DILLON TRANSPORT, INC., 5357 E. Fayette, P.O. Box 31238, Tucson, AZ 85751. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332-4718. Sub 1: broaden (A)(1) lighting fixtures, (2) accessories and parts, to "electrical machinery"; and (B) Americus, GA, and Eufaula, AL, to Sumter County, GA, and Barbour County, AL.

[FR Doc. 83-8116 Filed 3-29-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15148]

Motor Carriers; Edward T. Hopkins—Continuance in Control—Nationwide Transportation, Inc. and Interstate Express, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Procedures for Handling Exemptions Filed by Motor Carriers 367 I.C.C. 113 (1982) Nationwide Transportation, Inc., and, in turn Edward T. Hopkins who owns 50 percent of the stock of Nationwide, seek an exemption from the requirement under Section 11343 of prior regulatory approval for their continuance in control of Interstate Express, Inc.

DATES: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES:

(1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative, Nelson & Harding, P.O. Box 82028, Lincoln, NE 68501-2028

Comments should refer to No. MC-F-15148.

FOR FURTHER INFORMATION CONTACT: Joyce D. Lannon, (202) 275-7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 24, 1983.

By the Commission, Heber P. Hardy,
Director, Office of Proceedings,
Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-6116 Filed 3-29-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 1-5 of Executive Order 12196 of February 26, 1980, published in the *Federal Register* February 27, 1980 (45 FR 12769), will meet on April 13, 1983 starting at 10:00 AM in Rooms N3437 A, B, C, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

- I. Call to Order.
- II. Approval of Minutes of January 12, 1983 Meeting.
- III. Announcement of Appointments and Reappointments.
- IV. President's Safety and Health Award Criteria.
- V. Reports.
- VI. New Business.
- VII. Adjournment.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submission received by close of business April 8, 1983, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business April 8, 1983. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Frances Perkins Building, 200 Constitution Avenue NW., Room N3613, Washington, D.C. 20210, telephone (202) 523-6021.

Signed at Washington, D.C. this 28th day of March, 1983.

Thorne G. Auchter,
Assistant Secretary.

[FR Doc. 83-6415 Filed 3-30-83; 10:28 am]
BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Social and Economic Science Subpanel for Economics; Amended Meeting

The Subpanel for Economics will be meeting in Washington, D.C. on April 7-9, 1983. This meeting notice is being amended to include an Open Session on Thursday, April 7 from 4:30 p.m. to 5:30 p.m. The agenda for this open session will be a discussion by the Subpanel on the emerging research opportunities in economics.

For further information, please contact Daniel Newlon, 357-9674. The notice of the meeting was published in the *Federal Register* on Tuesday, March 15, 1983, page 10957, Vol. 48, No. 51, March 24, 1983.

M. Rebecca Winkler,
Committee Management Coordinator.

[FR Doc. 83-6097 Filed 3-29-83; 8:45 am]
BILLING CODE 7555-01-M

Committee on Equal Opportunities in Science and Technology; Postponement of Meeting

The Committee on Equal Opportunities in Science and Technology had planned to meet in Washington, D.C. on March 31-April 1, 1983. This meeting has been postponed until tentatively May 2-3, 1983. A new meeting notice will be published prior to this rescheduled meeting.

For further information, please contact Mary Poats, 357-9571. The notice of the meeting appeared in the *Federal Register* on Tuesday, March 15, page 10956, Vol. 48, No. 51, March 24, 1983.

M. Rebecca Winkler,
Committee Management Coordinator.

[FR Doc. 83-6086 Filed 3-29-83; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co. (Turkey Point Plant Units 3 and 4); Exemption

I

The Florida Power and Light Company (the licensee) is the holder of

Facility Operating License Nos. DPR-31 and DPR-41 (the licenses) which authorizes operation of the Turkey Point Plant Units 3 and 4 located in Dade County, Florida, at steady state reactor core power levels not in excess of 2200 megawatts thermal (rated power). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.71(e)(4) of 10 CFR Part 50 requires the licensee of nuclear power reactors to submit an annual revision to the Updated Final Safety Analysis Report (UFSAR) which shall reflect all changes up to a maximum of six months prior to the date of filing.

By letter dated February 2, 1983, Florida Power and Light Company (FPL) requested an Exemption from the requirements of 50.71(e)(4) for Turkey Point Plant Units 3 and 4 for four months for the following reasons. The current schedule for the annual update of July 22, 1983, would not include major modifications currently being implemented. These major modifications include the steam generator replacement for Unit 4, Auxiliary Feedwater modifications and modifications required as the result of the Three Mile Island Action Plan (NUREG-0737). The extension would facilitate the incorporation of the modifications identified above and accurately reflect the existing design. Further, the licensee's technical support staff necessary for providing inputs to the FSAR are heavily engaged in the current modifications. As a result, the licensee is requesting a four month schedular exemption for the current annual revision of the UFSAR.

The staff has evaluated the licensee's request for a four month extension to the regulation that requires an annual revision to the UFSAR. We believe that the extension of time is warranted to permit incorporation of the major modifications and changes to accurately reflect the existing design. The staff has determined that good cause has been shown to support the exemption and, therefore, a four month exemption from the date of compliance is acceptable for this annual revision currently scheduled for July 22, 1983.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter of February 2, 1983, is authorized by law and will not endanger life or property or the common defense

and security, and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption from compliance with the July 22, 1983 date for submitting the current annual revision to the UFSAR:

The current annual revision of the UFSAR which reflects all changes up to a maximum of six months prior to the date of filing, shall be filed by November 22, 1983. The next revision shall be filed no later than July 22, 1984, so that subsequent revisions will be in compliance with § 50.71(e) of 10 CFR Part 50.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 16th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-8209 Filed 3-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corporation and Jersey Central Power and Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Provisional Operating License No. DPR-16, issued to GPU Nuclear Corporation and the Jersey Central Power and Light Company (the licensees), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility). The amendment is effective as of its date of issuance.

The amendment deletes the Appendix B Environmental Technical Specifications (ETS) which pertain to the non-radiological water quality-related requirements, as required by the Federal Water Pollution Control Act Amendments of 1972.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice

of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated February 11, 1983, (2) Amendment No. 66 to License No. DPR-16, and (3) the Commission's letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room 1717, H Street, NW., Washington, D.C., and at the Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24 day of March 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-8210 Filed 3-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp. and R. E. Ginna Nuclear Power Plant; Exemption

I

Rochester Gas and Electric Corporation (the licensee) is the holder of provisional Operating License No. DPR-18 which authorizes the operation of the R. E. Ginna Nuclear Power Plant (the facility). The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) (NRC). The facility comprises one pressurized water reactor at the licensee's site in Wayne County, New York.

II

10 CFR 50.54(q) of the Commission's regulations requires a licensee authorized to operate a nuclear power plant to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E

requires each licensee annually to conduct an emergency preparedness exercise with full participation by the State and local county governments unless the State and all local county governments in the plume exposure pathway Emergency Planning Zone (EPZ) for the licensee's facility have otherwise participated in a full-scale exercise during the annual period (with such participation occurring in conjunction with a full-scale exercise at another nuclear power plant). In this latter case, the licensee is required to conduct an annual exercise with the participation of State and local governments consistent with the provisions of Section IV.F.3 of Appendix E for small scale exercises.

III

By letter dated November 18, 1982, Rochester Gas and Electric Corporation (the licensee, RG&E) requested an exemption from certain annual emergency plan exercise requirements of 10 CFR Part 50, Appendix E, Section IV.F.1.a such that the next exercise would be held no later than June 30, 1983. The licensee is unable to meet the annual exercise requirement because RG&E needs to meet the coordinated schedule developed by their organization and representatives from NRC, the Federal Emergency Management Agency (FEMA), and the State of New York. As a result, the next exercise has been tentatively scheduled for no later than June 30, 1983.

Based on the fact that the last full-scale exercise was held January 21, 1982; that the Ginna Emergency Plan implementation during the January 25, 1982 incident demonstrated an acceptable level of preparedness; that such a delay is necessary based on prior commitments of the State of New York, FEMA and NRC to support exercises at other nuclear facilities in New York State and NRC Region I; that the training of emergency response personnel will continue within RG&E; and that the most effective and beneficial annual exercises are those involving the full-scale participation of State and local county government organizations, the NRC finds that a one-time delay until no later than June 30, 1983 in performing the next annual emergency preparedness exercise will not adversely affect the overall state of emergency preparedness at Ginna.

IV

Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is authorized by law, will not endanger life

or property or the common defense and security and is otherwise in the public interest. Therefore, the requested exemption from the exercise requirements of 10 CFR Part 50, Appendix E, Section IV.F.1.a to allow for full-scale participation in the licensee's current annual exercise by NRC, FEMA and the State of New York no later than June 30, 1983 is hereby granted.

The Commission has determined that this exemption does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. Having made this determination, we have further concluded that the exemption involves an action which is insignificant from the standpoint of environmental impact and, pursuant to 10 CFR 51.5(d)(4), that an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

We have concluded, based on the considerations discussed in the Exemption, that: (1) Because the exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of an accident of a type different from any evaluated previously and does not involve a significant reduction in a margin of safety, the exemption does not involve a significant hazards consideration, (2) there is reasonable assurance that the health and safety of the public will not be endangered by this action, and (3) such activities will not be inimical to the common defense and security or to the health and safety of the public.

Dated at Bethesda, Maryland this 23rd day of March 1983.

For the Nuclear Regulatory Commission,
Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-8212 Filed 3-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas & Electric Co.; Issuance of an Exemption Fire Protection Rule

The U.S. Nuclear Regulatory Commission (the Commission) has, issued an Exemption relating to the Fire Protection Rule Scheduler Requirements of 10 CFR 50.48(c) for San Onofre Nuclear Generating Station, Unit No. 1 (SONGS 1). SONGS 1, which is operated by Southern California Edison Company

(SCE) (the licensee), is located in San Diego County, California.

The exemption request is related to the time allowed to complete modifications and additions to the fire protection features at SONGS 1. For reasons as stated in the exemption request, SCE requested additional time to complete these modifications and additions.

The Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and has granted the following exemptions with respect to the scheduler implementation of modifications and additions to San Onofre Unit No. 1 to meet the requirements of Section III.G of Appendix R to 10 CFR Part 50:

1. The effective date of the Fire Protection Rule used for computing the implementation of the fire protection features specified in 10 CFR 50.48(c)(3) is replaced by October 31, 1983.
2. The date of NRC approval used for computing the implementation of the fire protection features specified in 10 CFR 50.48(c)(4) is replaced by October 31, 1983.

The Commission has determined that the granting of the exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see: (1) The SCE's letters dated June 30, 1982 and August 3, 1982, and (2) the Commission's Exemption and letter of transmittal dated March 23, 1983. 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 at the San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California. A single copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 23rd day of March 1983.

For the Nuclear Regulatory Commission,

Dennis M. Crutchfield,
*Chief, Operating Reactors Branch No. 5,
Division of Licensing.*

[FR Doc. 83-8213 Filed 3-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266, 50-301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2); Request for Action

Notice is hereby given that by petition dated February 14, 1983, Wisconsin's Environmental Decade, Inc. filed a request for issuance of an order to Wisconsin Electric Power Company to show cause why the operating licenses for the Point Beach plants should not be modified, suspended, or revoked because of "the serious deterioration of operator performance at the facility." In accordance with the procedures specified in 10 CFR 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room for the Point Beach facilities at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241.

Dated at Bethesda, Maryland this 18 day of March 1983.

For the Nuclear Regulatory Commission,

Richard C. DeYoung,
Director, Office of Inspection and Enforcement.

[FR Doc. 83-8214 Filed 3-29-83; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (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)

1. Type of submission, new revision or extension: New.
2. The title of the information collection: Questionnaire to Radiographers.
3. The form number if applicable: Not applicable.
4. How often the collection is required: One time.
5. Who will be required or asked to report: Radiographers.
6. An estimate of the number of responses: 179.

7. An estimate of the total number of hours needed to complete the requirement or request: 90.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: Radiographers are requested to provide information regarding the size of their firms in order for the NRC to determine the economic impact of its rulemakings on the radiographic industry and especially the impact on small business.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 21st day of March 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

(FR Doc. 83-6215 Filed 3-29-83; 8:45 am)

BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting

On April 20 and 21, 1983, the Nuclear Regulatory Commission (NRC) will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming. The subjects which will be discussed include emergency planning, waste management, spent fuel shipments and notification, NRC decentralization and other items of mutual regulatory interest.

The meeting will be conducted in University Hall at the Rodeway Inn, Interstate 30 and Highway 360, Arlington, Texas. The meeting is open to the public for attendance and observation and will take place from 9:00 a.m. until 5:00 p.m. on Wednesday, April 20, and from 8:30 a.m. until 12:30 p.m. on Thursday, April 21, 1983.

Questions regarding this meeting should be directed to Sue Weissberg at (301) 492-9877.

Dated at Arlington, Texas this 22nd of March 1983.

For the Nuclear Regulatory Commission.

John T. Collins,

Regional Administrator, Region IV.

(FR Doc. 83-6213 Filed 3-29-83; 8:45 am)

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. SIPA-109; File No. SIPC 83-1]

Securities Investor Protection Corp.; Proposed Rule Change by Securities Investor Protection Corporation

Pursuant to section 3(e)(2)(A) of the Securities Investor Protection Act of 1970, 15 U.S.C. 78ccc(e)(2)(A), notice is hereby given that on February 24, 1983 the Securities Investor Protection Corporation filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Securities Investor Protection Corporation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SIPC's Statement of the Terms of the Proposed Rule Change

The text of the proposed rule change is as follows:

Rule 400 Satisfaction of Customer Claims For Standardized Options:

(a) For the purpose of sections 7(b)(1), 8 (b) and (d), and 16(11) of the Securities Investor Protection Act, (hereinafter referred to as "the Act") this rule will be applied in determining what a customer will receive in either (i) a liquidation proceeding pursuant to the Act or (ii) a direct payment procedure pursuant to section 10 of the Act, in satisfaction of a claim based upon Standardized Options positions.

(b) As promptly as practicable after the initiation of a liquidation proceeding or a direct payment procedure under the Act, the trustee in a liquidation proceeding, or SIPC in a direct payment procedure, shall liquidate or cause to be liquidated, by sale or purchase, all Standardized Options positions held for the accounts of customers.

(c) A trustee in a liquidation proceeding, or SIPC in a direct payment procedure, shall calculate the dollar amount of all Standardized Options positions held for the account of a customer in accordance with section 16(11) of the Act, and credit or debit, as appropriate, the dollar amount so calculated to the account of such customer.

(d) Notwithstanding paragraph (b) above, neither the trustee in a liquidation proceeding nor SIPC in a direct payment procedure shall be required under this Rule to liquidate any short position in Standardized Options covered by the deposit of: (i) The underlying securities, in the case of a call option, or (ii) treasury bills, in the case of a put option, by or on behalf of a

customer with a bank or other depository. Any such positions that are not liquidated shall be excluded from the calculation provided for in paragraph (c) above.

(e) In no event will Standardized Options positions be delivered to or on behalf of customers in satisfaction of claims pursuant to section 7(b)(1) of the Act.

(f) In no event will Standardized Options be purchased for delivery to customers pursuant to section 8(d) of the Act.

(g) This rule shall not be construed as limiting or restricting in any way the exercise of any right of a broker or registered clearing agency to liquidate or cause the liquidation of Standardized Options positions.

(h) As used in this rule the term "Standardized Options" means options traded on a national securities exchange, an automated quotation system of a registered securities association, or a foreign securities exchange.

II. SIPC's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SIPC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. SIPC's Statements in this regard are as follows:

A. SIPC's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

The purposes of the proposed rule change are: (1) To establish a uniform procedure for the liquidation of Standardized Options positions in proceedings pursuant to the Securities Investor Protection Act of 1970 as amended ("SIPA"), and (2) to establish a uniform method for calculating the value of such Standardized Options positions for distribution to customers of the debtor firm.

SIPC is authorized to adopt rules relating to procedures for the liquidation of SIPC members and for direct payment procedures, including the transfer of customer accounts, the distribution of customer property, and the advance and payment of SIPC funds, under SIPA section 3(b)(4)(B), 15 U.S.C. 78ccc(b)(4)(B).

Standardized Options are a wasting asset which, by their nature, decline in value over time. Because options, unlike most other types of securities, cannot be

physically delivered to customers,¹ the only method available to restore customer control over options positions is to transfer the options to a solvent SIPC member. However, such transfers are not always possible. Even where a transfer of the options positions (and other securities positions) is possible, it cannot always be done within the time constraints created by the very nature of the options positions.

This situation leads to uncertainty on the customer's part. The customer cannot know if all or part of his options positions will be transferred to another broker, and if such transfer is effected, whether there will be time to make appropriate investment decisions. To alleviate this potential uncertainty, and to improve investor confidence, the proposed rule will allow each customer to know, with certainty, that his options positions will be closed and his account credited or debited, as appropriate, based upon the nature of the options position on the filing date of the proceeding.²

B. SIPC's Statement on Burden on Competition

SIPC does not believe that the proposed rule change would impose any burden on competition.

C. SIPC's Statement on Comments on the Proposed Rule Change Received From Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received. SIPC has informally discussed the proposed rule change with the staff of the Options Clearing Corporation ("OCC") and understands that OCC supports the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate up to

90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of SIPC. All submissions should refer to the file number in the caption above and should be submitted within (21) days after the date of this publication.

By the Commission.

Dated: March 22, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-7876 Filed 3-29-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATOR

Small Business Investment Co.; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulations governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the Federal Register the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to Section 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 stat. 161), to that law's Federal override of State Usury ceilings, and to its forfeiture and penalty provisions.

Effective April 1, 1983, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 10.725 percent per annum.

Dated: March 23, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-8187 Filed 3-29-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series; No. 10-83]

Bonds of 2003; Interest

March 25, 1983.

The Secretary announced on March 24, 1983, that the interest rate on the bonds designated Bonds of 2003, described in Department Circular—Public Debt Series No. 10-83 dated March 16, 1983, will be 10½ percent. Interest on the bonds will be payable at the rate of 10½ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-8216 Filed 3-29-83; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular; Public Debt Series; No. 9-83]

Series D-1990 Notes; Interest Rate

March 24, 1983.

The Secretary announced on March 23, 1983, that the interest rate on the notes designated Series D-1990, described in Department Circular—Public Debt Series—No. 9-83 dated March 16, 1983, will be 10½ percent. Interest on the notes will be payable at the rate of 10½ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-8217 Filed 3-29-83; 8:45 am]

BILLING CODE 4810-40-M

¹SIPC has limited the scope of the proposed rule to Standardized Options only, since it is still possible to write options which are physically deliverable. These latter options, which may be "customer name securities" as defined in SIPA section 16(3), 15 U.S.C. 78l(i)(3), or "customer property" as defined in SIPA section 16(4), 15 U.S.C. 78l(i)(4) would continue to be treated like any other physically deliverable securities. See *SIPC v. Associated Underwriters, Inc.*, 423 F. Supp. 168 (D. Utah 1975).

²In the event a direct payment procedure is initiated, the options are valued as of the date of publication of notice. SIPA section 16(7)(c); 15 U.S.C. 78l(i)(7)(c).

Sunshine Act Meetings

Federal Register

Vol. 48, No. 62

Wednesday, March 30, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION FCC To Hold Open Commission Meeting, Thursday, March 31, 1983 March 24, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 31, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* In re petition by AT&T for amendment of Part 2 of the FCC Rules and regulations. *Summary:* Commission consideration of a Report and Order to amend Parts 2 and 21 to modify the calculation of necessary bandwidths for frequency modulated microwave radio relay systems.

General—2—*Title:* Amendment of Part 15 to add interim provisions for cordless telephones. *Summary:* The Commission will consider the merits of two petitions for rulemaking, RM-4062 and RM-4075, which request new channels for cordless telephones.

General—3—*Title:* Requirements for Licensed Operators in Various Radio Services. *Summary:* The Commission will consider whether or not to adopt a Notice of Proposed Rule Making to eliminate licensed operator requirements in various radio services.

General—4—*Title:* Amendment of the Commission's Rules to Allow the Selection from Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings. *Summary:* Commission consideration of a Second Report and Order to amend the Rules to use lotteries in certain media and non-media services for allocating initial licenses.

Private Radio—1—*Title:* Amendment of Parts 95 and 97 of the Commission's Rules to authorize ten year license terms in the General Mobile Radio Service (GMRS) and in the Amateur Radio Service. *Summary:* The Commission will consider whether to adopt Notices of Proposed Rule Making proposing to amend Parts 95 and 97 of the Rules to authorize ten year license terms in the GMRS and in the Amateur Radio Service, and proposing to permit a two year period of grace for renewal of expired licenses in the Amateur Radio Service.

Private Radio—2—*Title:* Application for Review filed by MTC, Inc., doing business as Metro Traffic Control in re: a ruling by the Chief, Private Radio Bureau regarding Section 90.415(a) of the Commission's rules. *Summary:* The Commission will consider the merits of an Application for Review filed by MTC, Inc., contesting a ruling by the Chief, Private Radio Bureau concerning Section 90.415(a) of the Commission's rules. This section (47 CFR 90.415(a)) prohibits the use of private land mobile radio service frequencies in connection with broadcasting.

Private Radio—3—*Title:* Amendment of Parts 1 and 90 of the Commission's Rules and Regulations to Implement a System of Temporary Licensing for Add-on Users of Multiple Licensed Facilities Authorized in the Private Land Mobile Radio Services and Operating Below 800 MHz. *Summary:* The Commission will consider whether to adopt final rules providing temporary licensing for eligible add-on users in the private land mobile radio services below 800 MHz.

Private Radio—4—*Title:* Amendment of the Amateur Radio Service Rules (Part 97) regarding expansion of the telephony segments of the Amateur Radio Service high frequency (HF) bands. *Summary:* The Commission will consider whether to adopt a Report and Order which would amend Part 97 of the Rules to expand the frequency segment available for telephony use in the 15 MHz amateur band, and a Further Notice of Proposed Rule Making proposing to amend the Rules to expand the segments available for telephony use in the other HF bands.

Common Carrier—1—*Title:* CC Docket No. 80-634, Changes in the Corporate Structure and Operations of the Communications Satellite Corporation. *Summary:* The Commission will consider two petitions for reconsideration or clarification of its August 5, 1982 Order in this proceeding.

Common Carrier—2—*Title:* Plans for the Provision of New Customer Premises Equipment Pursuant to the Structural and Accounting Requirements of the Second Computer Inquiry (Computer II). *Summary:* The Commission will consider whether to adopt the findings and recommendations of staff reports on its review of AT&T's plans for the operations of its separate

subsidiary, American Bell Inc., and the manner in which it relates to unseparated affiliates.

Common Carrier—3—*Title:* Joint Request for Approval of a Limited Partnership Agreement and Related Relief. *Summary:* The Commission will consider the Joint Request for Approval of a Limited Partnership Agreement filed by Advanced Mobile Phone Service, Inc., GTE Mobilnet of Los Angeles, Incorporated, ConTel Mobilcom, Inc. and United States Cellular Corporation (USCC), to provide cellular mobile telephone service on the wireline frequencies in the Los Angeles, California Standard Metropolitan Statistical Service Area.

Common Carrier—4—*Title:* Memorandum Opinion and Order on Reconsideration (Part 2), in General Docket 80-183 and Further Notice of Proposed Rulemaking. *Summary:* The Committee has before it a Memorandum Opinion and Order on Reconsideration (Part 2), of its Report and Order, in General Docket 80-183, 89 FCC 2d 1337, 47 Fed. Reg. 24557 (1982), which allocated 3 MHz of spectrum for private and common carrier one-way paging stations. This Order deals exclusively with nationwide network paging issues. The Further Notice of Proposed Rulemaking requests comments on the nature and extent of rate regulation for the network frequencies.

Common Carrier—5—*Title:* Petitions for Reconsideration of the Commission's Memorandum Opinion and Order in Exchange Network Facilities for Interstate Access (ENFIA) (CC Docket No. 78-371). FCC 82-431 released September 29, 1982. *Summary:* The Commission will consider a petition for expedited reconsideration filed by AT&T seeking recalculation of the off-peak discounts used in the computation of OCC billed minutes for use in the ENFIA rate formula, petitions for reconsideration filed by SPCC and USTS seeking rescission of the Commission's requirement that the OCC's refund to AT&T the difference between the interim billing and collection rate and the actual rate for Level D ENFIA charges, and a petition for reconsideration filed by SBS seeking replacement of the ENFIA rate determined in the September 29, 1982 MO&O with the rates in effect at the end of Phase I.

Common Carrier—6—*Title:* Plan filed by the American Telephone and Telegraph Company, pursuant to Section 22.901(d) of the Commission's rules, to capitalize ATT Cellular Co. for the provision of domestic public radio cellular telecommunications service. *Summary:* The Commission considers whether the American Telephone and Telegraph Company's capitalization plan should be approved.

Common Carrier—7—*Title:* Commission letter preliminarily responding to Report of

Communications Satellite Corporation on the Allocation of Costs of Shared Services and Comsat Labs filed in CC Docket No. 80-634. *Summary:* Letter to Comsat reviewing Comsat's proposed changes in its methodology for allocation of general and administrative costs, research and development expenses, and investment in Comsat Laboratories.

Video—1—Title: Cablevision of Chicago's notification of aeronautical frequency usage pursuant to Section 76.610 of the Commission's Rules. *Summary:* The Commission will consider whether to issue a Notice of Apparent Liability for forfeiture against Cablevision of Chicago for its use of aeronautical frequencies without authorization.

Video—2—Title: (1) Application to transfer control of San Joaquin Communications Corporation, licensee of television station KSEE, Fresno, California, from Michael Mathiesen, Octavia Diener and Richard J. Giddings, et al., to Meredith Corporation; (2) Petition to Deny filed by National Black Media Coalition; and (3) Petition to Deny filed by Television Advisory Committee of Mexican Americans. *Summary:* The Commission will consider the petitioners' allegations that: (1) The transferors' application violated the Commission's "Three Year Rule;" (2) the transferors failed to broadcast promised non-entertainment programming; and (3) the transferors' EEO performance at KSEE(TV) was inadequate. Petitioners also allege that the transferee inadequately described its non-entertainment programming and that the transferee's deficient EEO performance at its other stations raises issues concerning the transferee's future EEO performance at KSEE(TV).

Policy—1—Title: Reconsideration of action amending rules regarding daytime-only AM station assignments on Class I-A clear channels. *Summary:* The Memorandum Opinion and Order discusses and resolves the petitions for reconsideration which have been filed.

Policy—2—Title: Petitions for Reconsideration and/or Clarification of the Report and Order in the Matter of Inquiry Into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System (BC Docket No. 78-253). *Subject:* The Memorandum Opinion and Order discusses and resolves the issues raised by ten petitions for reconsideration filed with respect to the Commission's decision in the low power television proceeding.

Policy—3—Title: In the Matter of Amendment of Part 76, Subpart F of the Commission's Rules and Regulations Concerning the Fairness Doctrine and Political Cablecasting Requirements for Cable Television Systems. *Summary:* The Commission will consider adoption of a notice of proposed rule making concerning the applicability of the present policies and rules of the Fairness Doctrine and political cablecasting requirements to cable television systems to determine whether they can be improved or streamlined.

Policy—4—Title: Report and Order in the Matter of Amendment of Parts 2, 73, and 76

of the Commission's Rules to Authorize the Transmission of Teletext by TV Stations. *Summary:* Report and Order considers and resolves issues and questions raised in the Notice of Proposed Rule Making in this proceeding (BC Docket 81-741) and addresses a petition for reconsideration of action taken in the Notice.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: March 24, 1983.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-434-80 Filed 3-28-83; 10:42 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION
FCC To Hold a Closed Commission Meeting Thursday, March 31, 1983
March 24, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, March 31, 1983, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Application for Review of Hearing Designation Order in the Lockhart and Luling, Texas FM proceeding (Docket Nos. 82-449 through 82-459).

Hearing—2—WIOO, Inc., Carlisle, Pennsylvania, AM radio comparative renewal proceeding (Docket Nos. 21506-07).

General—1—Recommendations for Senior Executive Service members ratings, awards and pay level adjustments.

Hearings 1 and 2 are closed to the public because they concern Adjudication Matters (See 47 CFR 0.603 (i)).

General 1 is closed to the public because it concerns Internal Personnel Rules Matters (See 47 CFR 0.603 (b)).

The following persons are expected to attend the appropriate portions of this meeting:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission:

Hearing 1, March 2, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

Hearing 2, January 19, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

General 1, March 16, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: March 24, 1983.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-435-83 Filed 3-28-83; 10:42 am]

BILLING CODE 6712-01-M

3

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 12492, March 24, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., March 30, 1983.

CHANGE IN THE MEETING: Addition of the following item to the open session:

1. United States Lines, Inc.—Petition for special permission to establish new or initial motor/water rates on less than statutory notice.

[S-437-83 Filed 3-28-83; 11:43 am]

BILLING CODE 6730-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 24, 1983.

TIME AND DATE: 2 p.m., March 30, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Consolidation Coal Company, Docket No. WEVA 80-118-R, etc. (Issues include whether the judge properly concluded that roof bolting violations were significant and substantial.)

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen (202) 653-5632.

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier

announcement of the meeting was possible.

[S-439-83 Filed 3-28-83; 3:35 pm]
BILLING CODE 8735-01-M

5

FEDERAL RESERVE SYSTEM (Board of Governors)

TIME AND DATE: 10 a.m., Monday, April 4, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: March 25, 1983.

James McAfee,

Associate Secretary of the Board.

[S-438-83 Filed 3-28-83; 11:48 am]

BILLING CODE 8210-01-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-15]

TIME AND DATE: 2:30 p.m., Wednesday, April 6, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
 - a. Certain amorphous metal alloys and amorphous metal articles (Docket No. 920).
 - b. Certain D.C. brushless axial flow fans (Docket No. 922).
 - c. Certain portable kerosene heaters (Docket No. 921).
5. Investigation 337-TA-120 (Certain Silica-Coated Lead Chromate Pigments)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-436-83 Filed 3-28-83; 10:42 am]

BILLING CODE 7020-02-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of March 28, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: Tuesday, March 29:

2:00 p.m.

Discussion of Restart of Salem Unit 1 (Public Meeting)

Wednesday, March 30:

10:00 a.m.

Discussion/Possible Vote on Contested Issues in Callaway Full Power Proceeding (Closed—Exemption 10)

2:00 p.m.

Briefing on Investigation and Possible Enforcement Action (Closed—Exemption 5)

Thursday, March 31:

10:00 a.m.

Discussion of Regulatory Reform Task Force—Administrative Proposals—Backfit Rule (Public Meeting)

2:00 p.m.

Briefing on Systems Interaction (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting):

- a. Final Rulemaking Concerning Licensed Operator Staffing at Nuclear Power Units and Draft Policy Statement on Shift Crew Qualifications
- b. 10 CFR Part 50—Revision of Appendices G and H
- c. 10 CFR Part 60—Disposal of High Level Radioactive Wastes in Geologic Repositories

AUTOMATIC TELEPHONE ANSWERING

SERVICE FOR SCHEDULE UPDATE: (202)

634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

March 22, 1983.

Walter Magee,

Office of the Secretary.

[S-453-83 Filed 3-25-83; 4:22 pm]

BILLING CODE 7590-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of March 28, 1983 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: Tuesday, March 29:

2:00 p.m.

Discussion of Restart of Salem Unit 1 (Cancelled)

Wednesday, March 30:

10:00 a.m.:

Briefing on Shoreham (Closed—Exemption 10) (Replaces Discussion/Possible Vote on Contested Issues in Callaway Full Power Proceeding)

2:00 p.m.:

Briefing on Investigation and Possible Enforcement Action (Closed—Exemption 5) (As Announced)

Thursday, March 31:

10:00 a.m.:

Discussion of Regulatory Reform Task Force—Administrative Proposals—Backfit Rule (Public Meeting) (As Announced)

2:00 p.m.:

Briefing on Systems Interaction (Public Meeting) (As Announced)

3:30 p.m.:

Affirmation/Discussion and Vote (Public Meeting) (Items Revised):

- a. Final Rulemaking Concerning Licensed Operator Staffing at Nuclear Power Units and Draft Policy Statement on Shift Crew Qualifications (Tentative)
- b. 10 CFR Part 50—Revision of Appendices G and H (Tentative)
- c. 10 CFR Part 60—Disposal of High Level Radioactive Wastes in Geologic Repositories (Tentative)
- d. San Onofre Memorandum and Order Re Arrangements for Medical Services (Postponed from March 24)

ADDITIONAL INFORMATION:

On March 24 the Commission voted 4-0 (Commissioner Gilinsky not present) to hold Affirmation of NRDC v. NRC, No. 82-1962 (Clinch River), held that day. Discussion of Notice and Standing in Materials Licensing Cases scheduled for March 25, cancelled. Affirmation of Regulations to Implement Public Law 97-415 scheduled for March 24, postponed until March 25.

AUTOMATIC TELEPHONE ANSWERING

SERVICE FOR SCHEDULE UPDATE: (202)

634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

March 24, 1983.

Walter Magee,

Office of the Secretary.

[S-440-83 Filed 3-28-83; 4:00 pm]

BILLING CODE 7590-01-M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of April 4, 1983, at 450 5th Street, NW., Washington, D.C.

Closed meetings will be held on Tuesday, April 5, 1983, at 10:00 a.m. and

on Wednesday, April 6, 1983 at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 5, 1983, at 10:00 a.m., will be:

Institution of administrative proceedings of an enforcement nature.

The subject matter of the closed meeting scheduled for Wednesday, April 6, 1983, at 10:00 a.m., will be:

Access to investigative files by Federal,

State, or self-regulatory authorities.

Settlement of administrative proceeding of an enforcement nature.

Formal orders of investigation.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.
Regulatory matter bearing enforcement implications.
Regulatory matter regarding financial institution.
Opinion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Michael Lefever at (202) 272-2468.

March 28, 1983.

[S-441-83 Filed 3-28-83; 4:00 pm]

BILLING CODE 8010-01-M

10

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF
PREVIOUS ANNOUNCEMENT: 48 FR 12198,
March 23, 1983.

STATUS: Open meeting.

PLACE: 450 5th street NW., Washington,
D.C.

DATE PREVIOUSLY ANNOUNCED: Friday,
March 18, 1983.

CHANGES IN THE MEETING: Additional
items. The following additional items
will be considered at an open meeting
scheduled for Thursday, March 31, 1983,
at 10:00 a.m. in Room 1C30.

1. Consideration of whether to propose for comment a plan for the allocation of regulatory responsibilities pertaining to options-related sales practice matters pursuant to Rule 17d-2 under the Securities Exchange Act of 1934 between the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Midwest Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc. For further information, please contact Elizabeth S. York at (202) 272-2377.

2. Consideration of a request for interpretive advice relating to Rule 3-20 of Regulation S-X (17 CFR 210.3-20) concerning the currency in which the financial statements of foreign private issuers must be stated. For further information, please contact Ronald Adey at (202) 272-3250.

Chairman Shad and Commissioners Evans, Thomas and Longstreth determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Steve Boehm at (202) 272-2467.

March 28, 1983.

[S-442-83 Filed 3-28-83; 4:00 pm]

BILLING CODE 8010-01-M

Registered Federal Patent

**Wednesday
March 30, 1983**

Part II

Environmental Protection Agency

**Performance Specification 1 for Opacity
Emission Monitoring Systems**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2277-6]

Standards of Performance for New Stationary Sources; Revisions to Performance Specification 1 for Opacity Emission Monitoring Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions to Performance Specification 1, Specifications and Test Procedures for Opacity Continuous Emission Monitoring Systems in Stationary Sources, were proposed in the Federal Register October 10, 1979 (44 FR 58602). This action promulgates the revisions to Performance Specification (PS) 1. The purpose of these changes is to provide technical clarification and improvements to the monitoring installation specifications and the equipment design requirements. The intended effect of these revisions is to require all new opacity continuous emission monitoring systems (CEMS's) that are installed on or after the date of the promulgation of these revisions to use these specifications. Existing CEMS's are exempted from certain specifications.

DATE: Date effective: March 30, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these revisions to PS 1 is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Summary of Comments and Responses.* The summary of comments and responses for the promulgated PS 1 may be obtained from the EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Summary of Comments and Responses—Performance Specification—Specifications and Test Procedures for Opacity Continuous Emission Monitoring Systems in Stationary Sources, EPA-450/3-82-025." The document contains (1) a summary of the changes made to the standards since proposal and (2) a summary of all public comments made on the proposed

revisions and the Administrator's responses to the comments.

Docket. A docket, number OAQPS 79-4, containing information considered by EPA in revising the PS, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger T. Shigehara, Emission Measurement Branch (MD-19), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION:

Public Participation

Revisions to PS 1 were proposed and published on October 10, 1979, in the Federal Register (44 FR 58602). Public comments were solicited at the time of proposal. The public comment period was from October 10, 1979, to February 11, 1980.

Twenty-three comment letters were received concerning issues relative to the proposed specification. The comments have been carefully considered, and where determined to be appropriate by the Administrator, changes have been made in the proposed specification.

Significant Comments and Changes to the Proposed Performance Specification

Comments on the proposed revisions to PS 1 were received from EPA regional offices, State and local control agencies, manufacturers of continuous emission monitoring equipment, and industrial personnel. A detailed discussion of these comments can be found in the summary of comments and responses document. The comments and responses serve as the basis for the revisions made to the specification between proposal and promulgation. The comments discussed in this preamble are the major comments and are summarily addressed.

A number of commenters were concerned with the application of the PS to existing CEMS's. Their concern dealt mainly with the expense of moving monitors to new locations to meet the new requirements of the specification.

These revisions are intended to apply only to those monitors installed on or after the promulgation date of these revisions. Transmissometers installed prior to the promulgation date of this revised PS 1 will be exempted from certain specifications. A new system

replacing an existing monitor will be subject to the promulgated revisions to PS 1, except that the new transmissometer may be located at the old measurement location, regardless of whether the location meets the new requirements. If a new location is to be determined in such an instance, the new location must also meet the new specifications. It is not intended that any existing opacity monitoring system be retested or recertified as a result of the promulgation of these revisions.

Several commenters questioned the need for tightening the spectral response, angle of projection, and angle of view design specifications. They stated that this would possibly cause instrument alignment problems and that currently available monitors might not meet the design specifications.

After reconsidering the small advantage gained by tightening the specifications, the Agency has decided to retain the current design specifications, i.e., 500 and 600 nm spectral responses and 5 degrees angle of view and angle of projection.

Numerous comments were received relating to the monitor location requirements and the requirements for determining acceptable alternative locations. Based on the comments, some changes were made to these specifications. One commenter felt there is no justification for requiring the monitor to be located in the lower or upper portion of a horizontal duct and that locating the transmissometer at the midpoint should be permitted.

The Agency has considered the commenter's suggestion and changed the specification for horizontal ducts to allow locating the monitor anywhere between the midpoint and upper (or lower) third of the duct depending on CEMS position relative to flow disturbances. On a case-by-case basis, a short series of opacity stratification checks at several heights in the duct could be used to determine the location of average opacity, if a stratification problem is suspected.

One commenter felt that the criteria for determining acceptable alternative locations are not stringent enough and should include such information as effect of temporal and process changes. Another commenter felt the criteria to be too restrictive and suggested that engineering judgment alone be used on a case-by-case basis.

One purpose of the specifications is to provide some basic requirements to simplify the task of locating the monitor. In like manner, the procedure for determining alternative locations is to provide guidelines for determining that a

gross stratification problem does not exist in an alternative location requested by the source or the Agency. The Agency position is that these general procedures are adequate for determining acceptable alternative locations. Nonetheless, because of the comments, several changes were made. The criterion stating that the average opacity at the alternative location must be within ± 10 percent of the average opacity measured at an acceptable location (i.e., a location meeting the specifications) has been changed to a difference of ± 10 percent of the measured opacity at the acceptable location or 2 percent opacity, whichever is greater.

The Agency made one change to this section on its own initiative. As a practical matter, the requirement for a measurement path through the centroid of the stack or duct has been changed to a requirement for a measurement path through the centroidal area comprising 25 percent of the total cross-sectional area.

One commenter suggested that the transmissometer used for comparison testing when determining alternative locations must meet the requirements of the revised PS. Another commenter asked whether a portable monitor that did not measure the full stack diameter would be acceptable for this same purpose.

The transmissometers used should meet the design criteria of this specification and should be properly calibrated. The requirement for 24-hour calibration systems is unnecessary. Similarly with a portable unit, one must consider the application. Use of a transmissometer which cannot measure the entire diameter of a circular duct is inappropriate for determining whether stratification exists across a particular location of that duct. On the other hand, it might be totally acceptable to use a portable transmissometer in a horizontal duct and not measure completely across the duct where stratification is expected only along the vertical axis. Good engineering judgment should be used when determining the test criteria.

Several comments were received on the subject of the required calibration attenuators and the calibration error tests. Some confusion exists as to how and when the calibration error test is performed. One commenter stated that including the calibration error test as part of the operational test period implies these tests are to be conducted during the 168-hour performance test period. The commenter suggested that these tests would be best conducted off the stack, at the manufacturer's facility.

In the proposed and final specification, the calibration error and response tests are not included as part of the operational test period, but as part of the preliminary adjustments and tests. The introduction to this section specifically states that these tests may be conducted at the manufacturer's facility.

Another commenter stated that the specification should be changed so that the calibration error test would be conducted using the same data recording system that would be used during monitoring. This same point was raised regarding the procedures for the operational test period.

By definition of the CEMS (Section 2.1), the data recorder is part of the monitoring system and must be included in all the performance testing. This is the preferred situation; however, the Agency feels it is impractical to prohibit specifically conducting a performance test without the data handling unit to be used during monitoring. Prior approval of the Administrator is required if different data systems are used during the performance test and monitoring as allowed in § 60.13(i) of 40 CFR Part 60.

One commenter felt the selection of calibration attenuators for the calibration error test should be based on an uncorrected path length rather than on a corrected path length value.

Since the final monitoring results are to be reported on a corrected basis, it is desirable to conduct the linearity test on the corrected value. This will allow the actual data recorder used for monitoring to be used during the calibration tests. Furthermore, any nonlinearity in the measurement converter would be indicated when calibrating with the corrected signal. Since the instrument is to be calibrated with a corrected signal, the calibration attenuator values must be evenly spaced throughout the complete measurement range based on the corrected signal.

Two other comments were received on the placement of the attenuators while conducting the calibration error test. One commenter felt the procedure should permit placing the calibration attenuators inside the instrument housing. The other commenter felt the procedures will sometimes require excessively large filters if the entire projected beam is required to be attenuated at or as near the midpoint of the effluent stream as is practical.

The Agency feels the attenuators should be placed in the actual effluent measurement path in order to assure accurate results although alternative procedures are acceptable upon approval of the Administrator. This

requirement was, therefore, not changed, but this procedure was reworded to require attenuation of the entire beam received by the detector. Note that the proposed specification does state the measurement should be made as near the midpoint as is practical. The intent of this specification is to require that the calibration be conducted in the measurement path, not in the instrument housing. If the instrument manufacturer recommends a procedure where the attenuators are placed inside the instrument housing, the manufacturer must provide data showing the alternative procedure to be acceptable as outlined in § 60.13(i) of 40 CFR Part 60.

Several comments were received on the calibration procedure of the calibrated attenuators. Two commenters felt that the calibration of the attenuators must be traceable to the National Bureau of Standards (NBS). Another commenter felt the 3-month recalibration and checking 75 percent of the filter surface area requirements were excessive.

The specification has been changed to require a spectrophotometer calibration that is NBS traceable. The Agency does not feel a 3-month frequency of calibrations is excessive since the need for recalibration probably depends heavily on the type of attenuator, frequency of use, and care in handling. For specific cases, where data are available to show that less frequent calibrations are adequate, a change in procedure could be requested from the Administrator as allowed in § 60.13(i) of 40 CFR Part 60. The criterion for measuring 75 percent of the surface area has been deleted from the specification, and a more general requirement for checking several points on the filter has been added.

Three comments were received concerning the upscale calibration attenuator. One commenter said that the upscale calibration attenuator value should be specified at the level of the standard instead of a level higher than the standard. The commenter felt that approach would better quantify the accuracy at value of the standard. The value required for the attenuator has been changed to a range between the applicable opacity standard and one-half of the instrument span value.

One commenter stated that it is not clear whether the upscale calibration attenuator is subject to the stringent attenuator calibration procedure (Section 7.1.3). This commenter believed the upscale calibration attenuator does not provide the fundamental calibration of the instrument and therefore should

not be subject to the stringent calibration procedure. (According to the commenter, the upscale calibration attenuator serves only as a stability check, providing a means of routinely checking instrument response once the unit is operating.) Along the same line, another commenter felt the upscale calibration attenuator should be exempt from the 3-month recertification requirement of the calibration procedure (Section 7.1.3) so that the attenuator would not need to be removed from the monitor at 3-month intervals. The commenter said this would do more harm than good.

The Agency agrees with these positions. The fundamental calibration and linearity of the instrument are determined by the calibration attenuators (low, medium, and high range). The upscale calibration value is provided as a means of assuring the instrument response (calibration) remains constants over an extended time period. Consequently, once the instrument has been properly calibrated, the upscale calibration value can be measured by the calibrated monitoring system and recorded; this value then becomes the reference by which the calibration drift is measured. Note, however, that this requires the upscale calibration value to be established on an instrument properly calibrated with the certified attenuators. Furthermore, the specification requires that these calibrations be conducted on a path-corrected basis and with the actual monitoring system data recorder.

An additional design specification, external calibration filter access, has been recommended in the specification. EPA is interested in assuring that any reported emission data contain sufficient internal and external checks to permit an assessment of precision and accuracy of data. EPA, therefore, is recommending that transmissometer vendors make a provision in their monitor designs to accommodate an external calibration filter assembly. Such a filter assembly would be used in field performance audits. Several vendors already have a provision for external calibration, and the Agency believes that others could make this provision without excessive cost.

Several comments were received regarding the requirements for an optical alignment sight and the optical/zero alignment procedures. One commenter felt the allowable misalignment should be specified in Table 1.1 as a performance specification. Several other commenters said the optical alignment specification test should allow the option of

performing the test at the installed path length rather than at 8 meters; these commenters felt 8 meters to be excessively restrictive for short-path length installations.

The requirement for an alignment sight was written as a design specification as a means of determining if and when misalignment occurred. Since misalignment would cause a positive bias, the requirement for an alignment sight is simply a quality control check. The Agency does not require an alignment performance specification for the 168-hour operational test period. Since the specification is intended as an instrument design specification and not as a performance specification, it is appropriate to require a standard criterion for all instruments. In fact, this approach should simplify matters for the affected facilities since the instrument vendor can conduct this test in the laboratory and can certify that the design criterion was met.

One commenter stated that the proposed requirement must include testing both lateral and rotational misalignment for both the transceiver and reflector units.

No currently available units provide for checking rotational misalignment on the reflector end; therefore, requiring that an indicator be provided for this type of misalignment would not be practical. Proper procedures during calibration and installation will be required in order to reduce the effects of rotational misalignment. Section 7.1.1 requires that during the preliminary equipment setup, the rotation alignment must be adjusted to produce the maximum instrument output. As a result, any misadjustment during installation or operation on the stack will result in a positive opacity bias.

Another commenter stated that the requirement for an alignment sight should be deleted for zero pipe units since an absolute zero is checked.

The Agency agrees that any misalignment would be directly indicated in the zero check. Therefore, Section 5.1.4 has been revised to eliminate the requirement for an alignment sight for zero pipe models, which are capable of providing an absolute zero check in operation with effluent present while maintaining the same optical alignment during measurement and calibration modes.

In regard to the optical/zero alignment procedures, one commenter said the correct monitor path length is critical to the proper zero alignment of the instrument, especially when the final zero alignment is conducted offstack

(Section 7.2.2, Alternate Procedure). The commenter suggested that the monitor path length be measured, rather than relying on an estimated value from plant drawings.

EPA agrees and has added the requirement that the monitor path length be measured prior to conducting the off-stack zero alignment (Section 7.1.1).

Another commenter felt that criteria should be added to the specification for determining whether a clear stack condition exists prior to conducting an in-situ zero alignment. The commenter suggested using an instantaneous mode of data output and noting whether fluctuations occur in the measured values.

The Agency does not feel specific criteria for this determination should be required, however, further discussion has been added to the zero alignment section to suggest that careful thought be given to assuring a zero stack condition exists.

Several comments were received on the requirement for an automatic zero compensation indicator (for dirt accumulation). One commenter stated that an indicator for the amount of compensation should not be required because the initial operational test period adequately defines the required cleaning frequency. Another commenter said that during the 168-hour operational test period the amount of automatic zero compensation should not be included in the calculation of zero drift because it is no more valid than being required to report instrument compensation for other drift factors such as temperature and voltage fluctuations. A third commenter felt the requirement for an indicator showing 4 ± 0.5 percent is restrictive in the sense that this implies an accuracy of 0.5 percent opacity. The commenter asked whether it is sufficient to assure that a 4 percent opacity compensation not be exceeded by simply setting the indicator to activate at a lower opacity, e.g., 3 percent.

The Agency feels that if automatic compensation for dirt accumulation is permitted, then requiring some form of indicator is a reasonable means to assure that the compensation does not become excessive. The intent is to have an indicator activate when the compensation exceeds 4 percent opacity during normal operation. The specification has been rewritten to indicate this fact, and reference to ± 0.5 percent opacity has been deleted. For units with automatic compensation, the specification requires that the results for the 24-hour zero-drift test account for the amount of compensation. The zero drift calculation must account for the

amount of automatic zero compensation for dirt accumulation since measurement of zero drift following compensation would be meaningless.

The basic operating principle of the automatic zero compensation is to reset electronically the instrument response to zero if a nonzero value is obtained calibration. For dual-pass instruments, this compensation is based on "dirt accumulation" on the transmitter/receiver unit and the dirt accumulation on the reflector unit is assumed to be the same; therefore, this correction may not be accurate. On the other hand, other automatic electronic adjustments of the instrument (line voltage drift, etc.) are normally handled by balancing electronic signals in the operating unit. Incorrect compensation would appear as drift during the zero calibration check (in the same manner as if no correction were made).

Several comments were received regarding the recording system performance specification. One commenter found the specification to be ambiguous, and another commenter said it is too restrictive. A third commenter pointed out that two different values were given, 5.0 in the preamble and 0.5 in the regulation. The specification has been clarified to require a resolution of 0.5 percent opacity. For example, for an application using a strip chart recorder with a span value of 100 percent opacity, the recorder would be required to have 100 divisions so that the operator could extrapolate to within 0.5 division (0.5 percent opacity).

One commenter stated that the 90 percent requirement for slotted tubes is restrictive and that 60 percent is sufficient. Another commenter said that the provision requiring the slot length to be 90 percent of the monitor path length is ambiguous since by the technical definition of "monitor path length" the slotted length for a purged slotted tube system would always be 100 percent of the "depth of the effluent."

The Agency does not currently have data available comparing measurements made with slotted tube transmissometers partially viewing the effluent stream and transmissometers viewing the entire depth of the effluent. The facility operator, therefore, has the responsibility to show that a shortened path length is adequate. The obvious intent of the provision is to require 90 percent of the effluent stream (as measured between duct walls) to be monitored. Section 5.1.8 has been reworded to reflect this intent.

One commenter thought that the "retest" requirements are unclear and can be misinterpreted as to what tests must actually be repeated if the monitor

fails the 168-hour operational test period.

This section has been reworded to indicate that, if the monitor fails the initial operational test period, in general, only the 168-hour operational test period should be repeated after corrective measures have been taken. However, if significant changes are made to the monitoring system (e.g., light source, photodetector, major electronic components), the preliminary performance tests may have to be repeated. Judgment must be used in determining which tests are to be repeated.

Several comments relating to miscellaneous sections of the specification were received. One commenter questioned why the zero offset required during the operational test period was deleted. The zero offset was deleted because some CEMS's cannot be offset because of the type of system electronics used on them. The Agency feels that any negative zero drift that is not apparent when an offset is not being used will appear as a negative span drift.

One commenter questioned why the requirement for a 1-year zero realignment was deleted. The 1-year zero realignment is actually a quality assurance procedure and not a system performance specification. For this reason, the requirement was deleted from the specification. The requirement for a routine check of zero alignment will be considered for inclusion in quality assurance guidelines for opacity monitors.

One commenter requested to know how the outlet path length is calculated for noncircular stacks. The calculation is for the hydraulic diameter, i.e., $D = 2LW/(L + W)$. This equation has been added to Section 2.18.2, where the outlet path length is defined.

One commenter felt specifications must be written for determining whether an instrument responds to ambient light. The Agency feels that sound judgment based on an analysis of instrument design, location, and operation is sufficient to determine whether an instrument output is affected by ambient light.

One commenter noted that the definition of the mean spectral response did not support the normal procedures used for calculating this value, i.e., the calculation normally conducted is based on the spectral response curve and actually determines the first moment of the distribution, not "the wavelength which bisects the total area under the curve." The definition of the mean spectral response has been changed to be consistent with the calculations

normally used (i.e., calculation of the arithmetic mean value).

Several comments were received relating to general Agency policies for opacity measurements and for monitoring requirements. These comments do not really relate to the provisions of the actual performance specification. Two commenters felt that an additional performance requirements should be added to the specification to assess the relative accuracy of the CEMS as compared to Method 9 (certified visual emission observers). One commenter said that this would be appropriate since the CEMS is designed to substitute for the visual emission observer. The Agency does not feel this is appropriate. At the present time, the opacity CEMS is intended for continuously assessing the effectiveness of operation and maintenance practices on the control system; it is not intended as a substitute for visual observations.

One commenter noted that the specifications which require the monitor to be placed downstream of all particulate control systems, but where condensed water vapor is not present, may preclude installation on scrubbers where supersaturated conditions exist. The Commenter further pointed out that 40 CFR 60.47a(a) of Subpart Da requires the monitor to be installed upstream of the flue gas desulfurization (FGD); yet, in this case the opacity monitor would provide no value in determining compliance with § 60.42a(b) (Particulate Opacity Standard).

It is true that monitors may be precluded from use after scrubbers when condensed water vapor is present. Regarding the provisions of Subpart Da, the monitor is not intended to be used for determining compliance with the particulate opacity standard; Method 9 is the reference test method. A monitor placed before the FGD, but after the primary particulate control system, is of value for determining the effectiveness of control system operation and maintenance practices. This is the purpose of the monitor.

One commenter felt that opacity monitors (transmissometers) may not be the best instrument for certain monitoring applications (e.g., baghouses). This commenter felt that PS 1 should include provisions for allowing other types of monitors such as light backscattering, laser, and beta ray absorption instruments.

The purpose of PS 1 is to provide performance specifications for transmissometers. It is true that transmissometers may not provide the best monitoring data for certain types of facilities. The EPA Office of Research

and Development is currently evaluating different types of instrumentation. Once these monitors have been evaluated and if it is determined that they provide adequate monitoring data, specifications and appropriate regulation changes for the new instrumentations will be written.

It should be noted that the regulation (40 CFR Part 60) currently states [§ 60.13(i)(8)] that alternative monitoring systems (not meeting PS 1) may be used if the system is "adequately demonstrated to show a definite and consistent relationship between its measurements and the measurement of opacity by a system complying with Performance Specification 1."

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The Docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated PS and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (except for interagency review materials [Section 307(d)(7)(A)]).

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. The regulation is not major because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on completion, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities, because the revisions to these performance specifications require no changes or only minor changes to presently available equipment. Some manufacturers have already incorporated revised procedures or changes to their product that are included in these revisions.

This rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires.

Dated: March 18, 1983.

John W. Hernandez,
Acting Administrator.

PART 60—[AMENDED]

Section 60.13 and Appendix B of 40 CFR Part 60 are amended as follows:

1. By revising §§ 60.13(c)(1), 60.13(d)(3), 60.13(g), and 60.13(h) as follows:

§ 60.13 Monitoring requirements.

(c) * * *

(1)(i) Continuous monitoring systems for measuring opacity of emissions installed on or after March 30, 1983 shall comply with all the provisions and requirements in Performance Specification 1. Continuous monitoring systems for measuring opacity of emissions installed before March 30, 1983 are required to comply with the provisions and requirements of Performance Specification 1 except for the following:

(1) Section 4—Installation Specifications.

(2) Paragraphs 5.1.4—Optical Alignment Sight, 5.1.6—Access to External Optics, 5.1.7—Automatic Zero Compensation Indicator, and 5.1.8—Slotted Tube of Section 5—Design and Performance Specification 1.

(3) Paragraph 6.4—Optical Alignment Sight of Section 6. Design Specifications Verification Procedure.

If an existing opacity monitoring system is replaced on or after March 30, 1983, the new opacity monitoring system shall comply with the requirements of Performance Specification 1, except the new monitoring system may be located at the same measurement location as for the replaced monitoring system. If a new measurement location is to be determined at the time of replacement, the new location must meet the requirements of Performance Specification 1.

* * *

(d) * * *

(3) For continuous monitoring systems measuring opacity of emissions, minimum procedures shall include a method for producing a simulated zero (or no greater than 10 percent) opacity condition and an upscale (span value) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.

(g) When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install an applicable continuous monitoring system on each separate effluent unless the installation of fewer systems is approved by the Administrator. When more than one continuous monitoring system is used to measure the emissions from one affected facility (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required from each continuous monitoring system.

(h) Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to 6-minute averages and for continuous monitoring systems other than opacity to 1-hour averages for time periods as defined in § 60.2. Six-minute opacity averages shall be calculated from 36 or more data points equally spaced over each 6-minute period. For continuous monitoring systems other than opacity, 1-hour averages shall be computed from four or more data points equally spaced over each 1-hour period. Data recorder during periods of continuous monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph. An arithmetic or integrated average of all data may be used. The data may be recorded in reduced or nonreduced form (e.g., ppm pollutant and percent O₂ or ng/l of pollutant). All excess emissions shall be converted into units of the

standard using the applicable conversion procedures specified in subparts. After conversion into units of the standard, the data may be rounded to the same number of significant digits as used in the applicable subparts to specify the emission limit (e.g., rounded to the nearest 1 percent opacity).

Appendix B, Part 60 of Chapter 1, Title 40 of the Code of Federal Regulations is revised to read as follows:

Appendix B. Performance Specifications.
Performance Specification 1. Specifications and Test Procedures for Opacity Continuous Emission Monitoring Systems in Stationary Sources

1. Applicability and Principle

1.1 Applicability. This specification contains requirements for the design, performance, and installation of instruments for opacity continuous emission monitoring systems (CEMS's) and data computation procedures for evaluating the acceptability of a CEMS. Certain design requirements and test procedures established in this specification may not apply to all instrument designs. In such instances, equivalent design requirements and test procedures may be used with prior approval of the Administrator.

Performance Specification 1 (PS 1) applies to opacity monitors installed after March 30, 1983. Opacity monitors installed before March 30, 1983, are required to comply with the provisions and requirements of PS 1 except for the following:

- (a) Section 4, "Installation Specifications."
- (b) Paragraphs 5.1.4, 5.1.5, 5.1.6, 5.1.7, and 5.1.8 of Section 5, "Design and Performance Specifications."
- (c) Paragraph 6.4 of Section 6 "Design Specifications Verification Procedure."

An opacity monitor installed before March 30, 1983, need not be tested to demonstrate compliance with PS 1 unless required by regulatory action other than the promulgation of PS 1. If an existing monitor is replaced with a new monitor, PS 1 shall apply except that the new monitor may be located at the old measurement location regardless of whether the location meets the requirements of Section 4. If a new measurement location is to be determined, the new location shall meet the requirements of Section 4.

1.2 Principle. The opacity of particulate matter in stack emissions is continuously monitored by a measurement system based upon the principle of transmissometry. Light having specific spectral characteristics is projected from a lamp through the effluent in the stack or duct, and the intensity of the projected light is measured by a sensor. The projected light is attenuated because of absorption and scatter by the particulate matter in the effluent; the percentage of visible light attenuated is defined as the opacity of the emission. Transparent stack emissions that do not attenuate light will have a transmittance or 100 percent of an opacity of zero percent. Opaque stack emissions that attenuate all of the visible light will have a transmittance of zero percent or an opacity of 100 percent.

This specification establishes specific design criteria for the transmissometer system. Any opacity CEMS that is expected to meet this specification is first checked to verify that the design specifications are met. Then, the opacity CEMS is calibrated, installed, and operated for a specified length of time. During this specified time period, the system is evaluated to determine conformance with the established performance specifications.

2. Definitions

2.1 Continuous Emission Monitoring System. The total equipment required for the determination of opacity. The system consists of the following major subsystems:

2.1.1 Sample Interface. That portion of CEMS that protects the analyzer from the effects of the stack effluent and aids in keeping the optical surfaces clean.

2.1.2 Analyzer. That portion of the CEMS that senses the pollutant and generates an output that is a function of the opacity.

2.1.3 Data Recorder. That portion of the CEMS that provides a permanent record of the analyzer output in terms of opacity. The data recorder may include automatic data-reduction capabilities.

2.2 Transmissometer. That portion of the CEMS that includes the sample interface and the analyzer.

2.3 Transmittance. The fraction of incident light that is transmitted through an optical medium.

2.4 Opacity. The fraction of incident light that is attenuated by an optical medium. Opacity (Op) and transmittance (Tr) are related by: $Op = 1 - Tr$.

2.5 Optical Density. A logarithmic measure of the amount of incident light attenuated. Optical density (D) is related to the transmittance and opacity as follows: $D = -\log_{10} Tr = -\log_{10} (1 - Op)$

2.6 Peak Spectral Response. The wavelength of maximum sensitivity of the transmissometer.

2.7 Mean Spectral Response. The wavelength that is the arithmetic mean value of the wavelength distribution for the effective spectral response curve of the transmissometer.

2.8 Angle of View. The angle that contains all of the radiation detected by the photodetector assembly of the analyzer at a level greater than 2.5 percent of the peak detector response.

2.9 Angle of Projection. The angle that contains all of the radiation projected from the lamp assembly of the analyzer at a level of greater than 2.5 percent of the peak illuminance.

2.10 Span Value. The opacity value at which the CEMS is set to produce the maximum data display output as specified in the applicable subpart.

2.11 Upscale Calibration Value. The opacity value at which a calibration check of the CEMS is performed by simulating an upscale opacity condition as viewed by the receiver.

2.12 Calibration Error. The difference between the opacity values indicated by the CEMS and the known values of a series of calibration attenuators (filters or screens).

2.13 Zero Drift. The difference in the CEMS output readings from the zero

calibration value after a stated period of normal continuous operation during which no unscheduled maintenance, repair, or adjustment took place. A calibration value of 10 percent opacity or less may be used in place of the zero calibration value.

2.14 Calibration Drift. The difference in the CEMS output readings from the upscale calibration value after a stated period of normal continuous operation during which no unscheduled maintenance, repair, or adjustment took place.

2.15 Response Time. The amount of time it takes the CEMS to display on the data recorder 95 percent of a step change in opacity.

2.16 Conditioning Period. A period of time (168 hours minimum) during which the CEMS is operated without any unscheduled maintenance, repair, or adjustment prior to initiation of the operational test period.

2.17 Operational Test Period. A period of time (168 hours) during which the CEMS is expected to operate within the established performance specifications without any unscheduled maintenance, repair, or adjustment.

2.18 Path Length. The depth of effluent in the light beam between the receiver and the transmitter of a single-pass transmissometer, or the depth of effluent between the transceiver and reflector of a double-pass transmissometer. Two path lengths are referenced by this specification as follows:

2.18.1 Monitor Path Length. The path length (depth of effluent) at the installed location of the CEMS.

2.18.2 Emission Outlet Path Length. The path length (depth of effluent) at the location where emissions are released to the atmosphere. For noncircular outlets, $D = (2LW) / (L + W)$, where L is the length of the outlet and W is the width of the outlet. Note that this definition does not apply to pressure baghouse outlets with multiple stacks, side discharge vents, ridge roof monitors, etc.

3. Apparatus

3.1 Opacity Continuous Emission Monitoring System. Any opacity CEMS that is expected to meet the design and performance specifications in Section 5 and a suitable data recorder, such as an analog strip chart recorder or other suitable device (e.g., digital computer) with an input signal range compatible with the analyzer output.

3.2 Calibration Attenuators. Minimum of three. These attenuators must be optical filters or screens with neutral spectral characteristics selected and calibrated according to the procedures in Sections 7.1.2 and 7.1.3, and of sufficient size to attenuate the entire light beam received by the detector of the transmissometer.

3.3 Upscale Calibration Value Attenuator. An optical filter with neutral spectral characteristics, a screen, or other device that produces an opacity value (corrected for path length, if necessary) that is greater than or equal to the applicable opacity standard but less than or equal to one-half the applicable instrument span value.

3.4 *Calibration Spectrophotometer.* A laboratory spectrophotometer meeting the following minimum design specifications:

Parameter	Specification
Wavelength range	400-700 nm.
Detector angle of view	< 10°
Accuracy	< 0.5 percent transmittance, NBS traceable calibration.

4. Installation Specifications

Install the CEMS at a location where the opacity measurements are representative of the total emissions from the affected facility. These requirements can be met as follows:

4.1 *Measurement Location.* Select a measurement location that is (a) downstream from all particulate control equipment, (b) where condensed water vapor is not present, (c) free of interference from ambient light (applicable only if transmissometer is responsive to ambient light), and (d) accessible in order to permit routine maintenance. Accessibility is an important criterion because easy access for lens

cleaning, alignment checks, calibration checks, and blower maintenance will help assure quality data.

4.2 *Measurement Path.* The primary concern in locating a transmissometer is determining a location of well-mixed stack gas. Two factors contribute to complete mixing of emission gases: turbulence and sufficient mixing time. The criteria listed below define conditions under which well-mixed emissions can be expected.

Select a measurement path that passes through a centroidal area equal to 25 percent of the cross section. Additional requirements or modifications must be met for certain locations as follows:

4.2.1 If the location is in a straight vertical section of stack or duct and is less than 4 equivalent diameters downstream from a bend, use a path that is in the plane defined by the upstream bend (see Figure 1-1).

4.2.2 If the location is in a straight vertical section of stack or duct and is less than 1 equivalent diameter upstream from a bend, use a path that is in the plane defined by the bend (see Figure 1-2).

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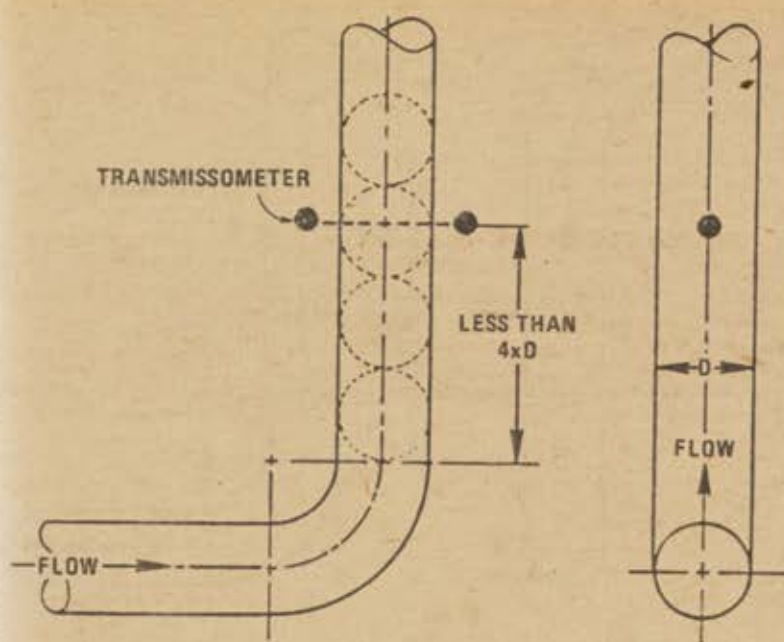


Figure 1-1. Transmissometer location downstream of a bend in a vertical stack.

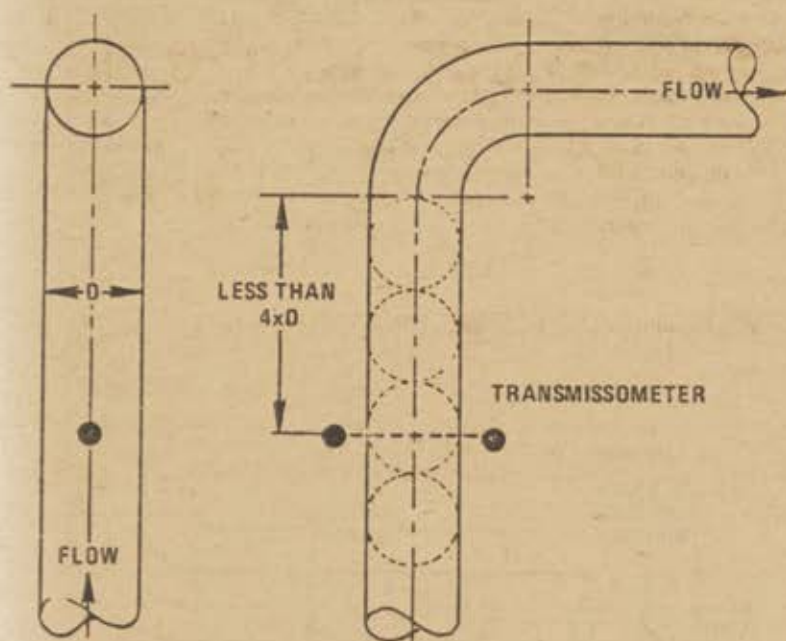


Figure 1-2. Transmissometer location upstream of a bend in a vertical stack.

4.2.3 If the location is in a straight vertical section of stack or duct and is less than 4 diameters downstream and is also less than 1 diameter upstream from a bend, use a path in the plane defined by the upstream bend (see Figure 1-3).

4.2.4 If the location is in a horizontal section of duct and is at least 4 diameters downstream from a vertical bend, use a path in the horizontal plane that is between one-third and one-half the distance up the vertical axis from the bottom of the duct (see figure 1-4).

4.2.5 If the location is in a horizontal section of duct and is less than 4 diameters downstream from a vertical bend, use a path in the horizontal plane that is between one-half and two-thirds the distance up the vertical axis from the bottom of the duct for upward flow in the vertical section, and is between one-third and one-half the distance up the vertical axis from the bottom of the duct for downward flow (Figure 1-5).

4.3 *Alternative Locations and Measurement Paths.* Other locations and measurement paths may be selected by demonstrating to the Administrator that the average opacity measured at the alternative location or path is equivalent to the opacity as measured at a location meeting the criteria of Sections 4.1 and 4.2. The opacity at the alternate location is considered equivalent if the average value measured at the alternate location is within the range defined by the average measured opacity ± 10 percent at the location meeting the installation criteria in Section 4.2, or if the difference between the two average opacity values is less than 2 percent opacity. To conduct this demonstration, measure the opacities at the two locations or paths for a minimum period of 2 hours and compare the results. The opacities of the two locations or paths may be measured at different times, but must be measured at the same process operating conditions. Alternative procedures for determining acceptable locations may be used if approved by the Administrator.

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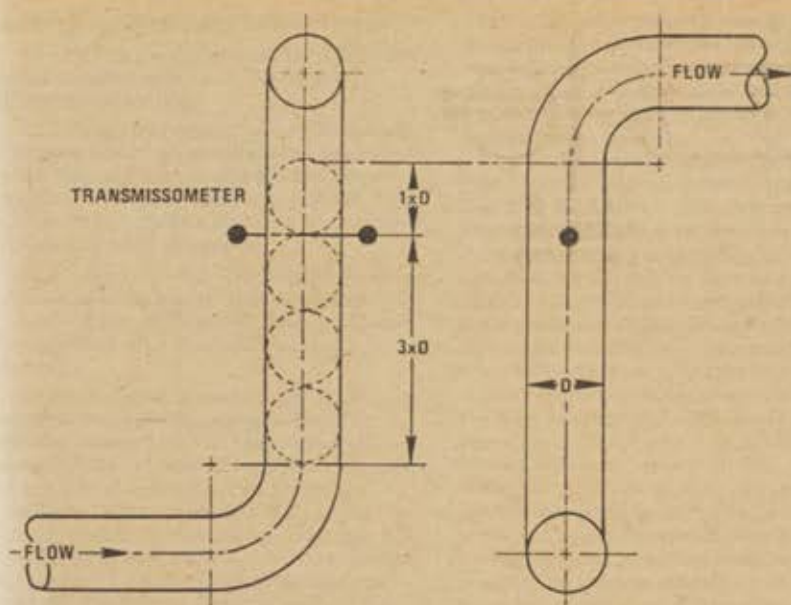


Figure 1-3. Transmissometer location between bends in a vertical stack.

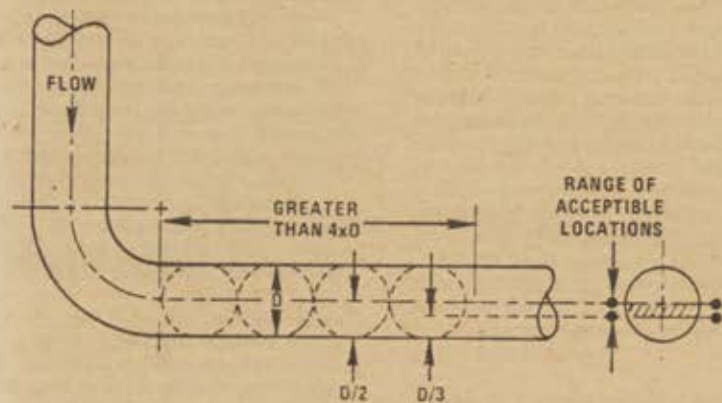
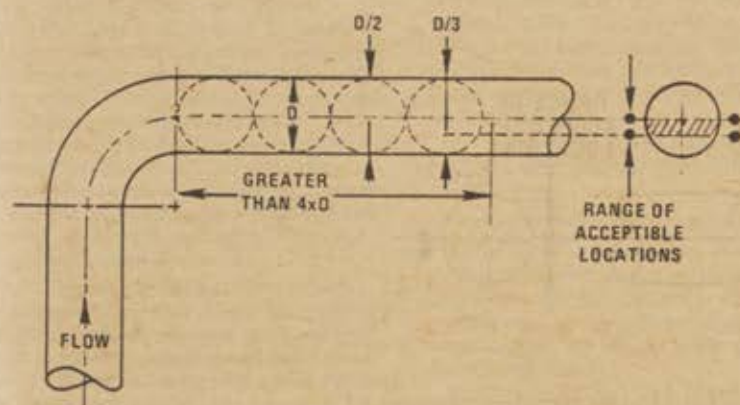


Figure 1-4. Transmissometer location less than four diameters downstream of a vertical bend in a horizontal stack.

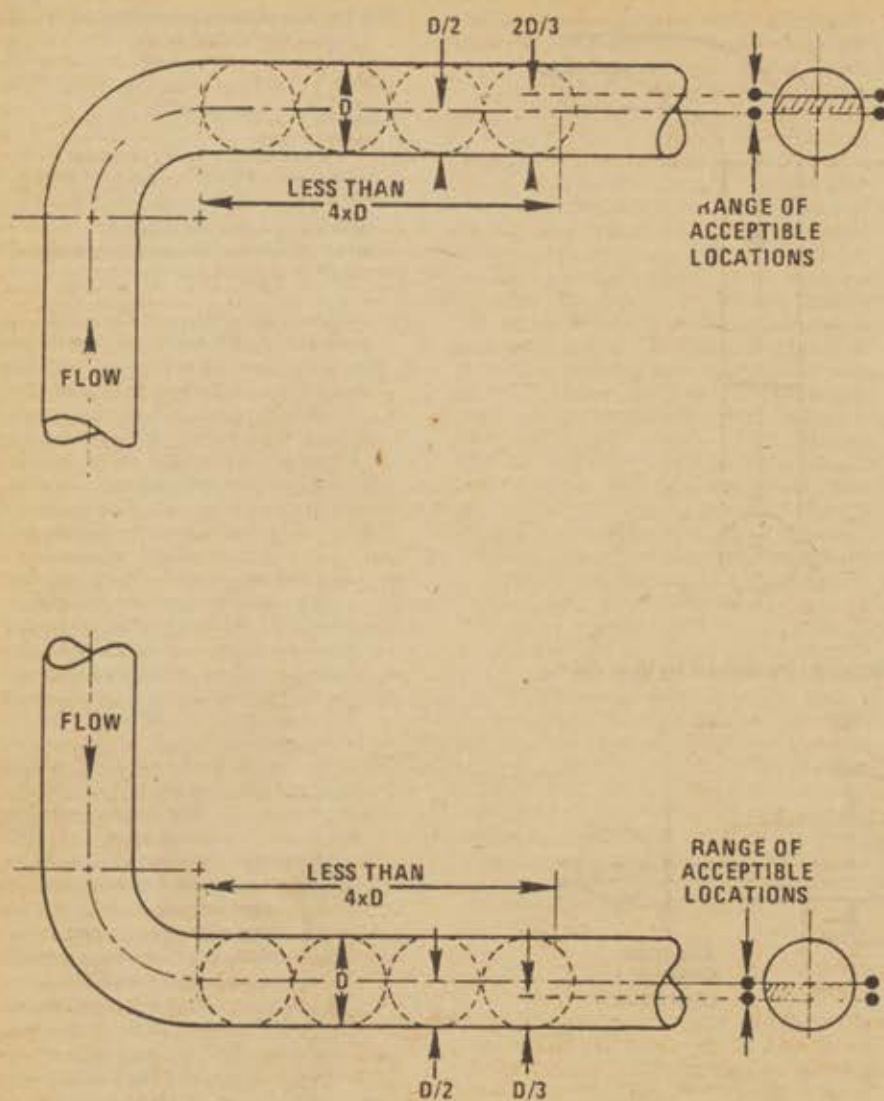


Figure 1-5. Transmissometer location greater than four diameters downstream of a vertical bend in a horizontal stack.

5. Design and Performance Specifications

5.1 Design Specifications. The CEMS for opacity shall comply with the following design specifications:

5.1.1 Peak and Mean Spectral Responses. The peak and mean spectral responses must occur between 500 nm and 600 nm. The response at any wavelength below 400 nm or above 700 nm shall be less than 10 percent of the peak spectral response.

5.1.2 Angle of View. The total angle of view shall be no greater than 5 degrees.

5.1.3 Angle of Projection. The total angle of projection shall be no greater than 5 degrees.

5.1.4 Optical Alignment Sight. Each analyzer must provide some method for visually determining that the instrument is optically aligned. The method provided must be capable of indicating that the unit is misaligned when an error of ± 2 percent opacity occurs due to misalignment at a monitor path length of 8 meters. Instruments that are capable of providing an absolute zero check while in operation on a stack or duct with effluent present, and while maintaining the same optical alignment during measurement and calibration, need not meet this requirement (e.g., some "zero pipe" units).

5.1.5 Simulated Zero and Upscale Calibration System. Each analyzer must include a calibration system for simulating a zero (or no greater than 10 percent) opacity and an upscale opacity value for the purpose of performing periodic checks of the transmissometer calibration while on an operating stack or duct. This calibration system will provide, as a minimum, a system check of the analyzer internal optics and all electronic circuitry including the lamp and photodetector assembly.

5.1.6 Access to External Optics. Each analyzer must provide a means of access to the optical surfaces exposed to the effluent stream in order to permit the surfaces to be cleaned without requiring removal of the unit from the source mounting or without requiring optical realignment of the unit.

5.1.7 Automatic Zero Compensation Indicator. If the CEMS has a feature that provides automatic zero compensation for dirt accumulation on exposed optical surfaces, the system must also provide some means of indicating when a compensation of 4 percent opacity has been exceeded. This indicator shall be at a location accessible to the operator (e.g., the data output terminal). During the operational test period, the system must provide some means (manual or automated) for determining the actual amount of zero compensation at the specified 24-hour intervals so that the actual 24-hour zero drift can be determined (see Section 7.4.1).

5.1.8 Slotted Tube. For transmissometers that use slotted tubes, the length of the slotted portion(s) must be equal to or greater than 90 percent of the effluent path length (distance between duct or stack walls). The slotted tube must be of sufficient size and orientation so as not to interfere with the free flow of effluent through the entire optical volume of the transmissometer photodetector.

The manufacturer must also show that the transmissometer minimizes light reflections. As a minimum, this demonstration shall consist of laboratory operation of the transmissometer both with and without the slotted tube in position.

Should the operator desire to use a slotted tube design with a slotted portion equal to less than 90 percent of the monitor path length, the operator must demonstrate to the Administrator that acceptable results can be obtained. As a minimum demonstration, the effluent opacity shall be measured using both the slotted tube instrument and another instrument meeting the requirement of this specification but not of the slotted tube design. The measurements must be made at the same location and at the same process operating conditions for a minimum period of 2 hours with each instrument. The shorter slotted tube may be used if the average opacity measured is equivalent to the opacity measured by the nonslotted tube design. The average opacity measured is equivalent if it is within the opacity range defined by the average opacity value ± 10 percent measured by the nonslotted tube design, or if the difference between the average opacities is less than 2 percent opacity.

5.1.9 External Calibration Filter Access (optional). Provisions in the design of the transmissometer to accommodate an external calibration filter assembly are recommended. An adequate design would permit occasional use of external (i.e., not intrinsic to the instrument) neutral density filters to assess monitor operation.

5.2 Performance Specifications. The opacity CEMS specifications are listed in Table 1-1.

6. Design Specifications Verification Procedure

These procedures will not apply to all instrument designs and will require modification in some cases; all procedural modifications are subject to the approval of the Administrator.

Test each analyzer for conformance with the design specifications of Sections 5.1.1-5.1.4, or obtain a certificate of conformance from the analyzer manufacturer as follows:

6.1 Spectral Response. Obtain detector response, lamp emissivity, and filter transmittance data for the components used in the measurement system from their respective manufacturers, and develop the effective spectral response curve of the transmissometer. Then determine and report the peak spectral response wavelength, the mean spectral response wavelength, and the maximum response at any wavelength below 400 nm and above 700 nm expressed as a percentage of the peak response.

Alternatively, conduct a laboratory measurement of the instrument's spectral response curve. The procedures of this laboratory evaluation are subject to approval of the Administrator.

TABLE 1-1.—PERFORMANCE SPECIFICATIONS

Parameter	Specifications
1. Calibration error*	<3 percent opacity
2. Response time	<10 seconds

TABLE 1-1.—PERFORMANCE SPECIFICATIONS—Continued

Parameter	Specifications
3. Conditioning period*	<168 hours
4. Operational test period*	<168 hours
5. Zero drift (24-hour)*	<2 percent opacity
6. Calibration drift (24-hour)*	<2 percent opacity
7. Data recorder resolution	<0.5 percent opacity

* Expressed as the sum of the absolute value of the mean and the absolute value of the confidence coefficient.

† During the conditioning and operational test periods, the CEMS must not require any corrective maintenance, repair, replacement, or adjustment other than that clearly specified as routine and required in the operation and maintenance manuals.

6.2 Angle of View. Set up the receiver as specified by the manufacturer's written instructions. Draw an arc with radius of 3 meters in the horizontal direction. Using a small (less than 3 centimeters) nondirectional light source, measure the receiver response at 5-centimeter intervals on the arc for 30 centimeters on either side of the detector centerline. Repeat the test in the vertical direction. Then for both the horizontal and vertical directions, calculate the response of the receiver as a function of viewing angle (26 centimeters of arc with a radius of 3 meters equals 5 degrees), report relative angle of view curves, and determine and report the angle of view.

6.3 Angle of Projection. Set up the projector as specified by the manufacturer's written instructions. Draw an arc with a radius of 3 meters in the horizontal direction. Using a small (less than 3 centimeters) photoelectric light detector, measure the light intensity at 5-centimeter intervals on the arc for 30 centimeters on either side of the light source centerline of projection. Repeat the test in the vertical direction. Then for both the horizontal and vertical directions, calculate the response of the photoelectric detector as a function of the projection angle (26 centimeters of arc with a radius of 3 meters equals 5 degrees), report the relative angle of projection curves, and determine and report the angle of projection.

6.4 Optical Alignment Sight. In the laboratory set the instrument up as specified by the manufacturer's written instructions for a monitor path length of 8 meters. Align, zero, and span the instrument. Insert an attenuator of 10 percent (nominal opacity) into the instrument path length. Slowly misalign the projector unit by rotating it until a positive or negative shift of 2 percent opacity is obtained by the data recorder. Then, following the manufacturer's written instructions, check the alignment. The alignment procedure must indicate that the instrument is misaligned. Repeat this test for lateral misalignment of the projector. Realign the instrument and follow the same procedure for checking misalignment of the receiver or retroreflector unit (lateral misalignment only).

6.5 Manufacturer's Certificate of Conformance (alternative to above). Obtain from the manufacturer a certificate of conformance stating that the first analyzer randomly sampled from each month's production was tested according to Sections 6.1 through 6.4 and satisfactorily met all requirements of Section 5 of this specification. If any of the requirements were

not met, the certificate must state that the entire month's analyzer production was resampled according to the military standard 105D sampling procedure (MIL-STD-105D) inspection level II; was retested for each of the applicable requirements under Section 5 of this specification; and was determined to be acceptable under MIL-STD-105D procedures, acceptable quality level 1.0. The certificate of conformance must include the results of each test performed for the analyzer(s) sampled during the month the analyzer being installed was produced.

7. Performance Specification Verification Procedure

Test each CEMS that conforms to the design specifications (Section 5.1) using the following procedures to determine conformance with the specifications of Table 1-1. These tests are to be performed using the data recording system to be employed during monitoring. Prior approval from the Administrator is required if different data recording systems are used during the performance test and monitoring.

7.1 Preliminary Adjustments and Tests. Before installing the system on the stack, perform these steps or tests at the affected facility or in the manufacturer's laboratory.

7.1.1 Equipment Preparation. Set up and calibrate the CEMS for the monitor path length to be used in the installation as specified by the manufacturer's written instructions. For this specification, the mounting distance between the transmitter and receiver/reflector unit at the source must be measured prior to performing the calibrations (do not use distances from engineering drawings). If the CEMS has automatic path length adjustment, follow the manufacturer's instructions to adjust the signal output from the analyzer in order to yield results based on the emission outlet path length. Set the instrument and data recording system ranges so that maximum instrument output is within the span range specified in the applicable subpart.

Align the instrument so that maximum system response is obtained during a zero (or upscale) check performed across the simulated monitor path length. As part of this alignment, include rotating the reflector unit (detector unit for single pass instruments) on its axis until the point of maximum instrument response is obtained.

Follow the manufacturer's instructions to zero and span the instrument. Perform the zero alignment adjustment by balancing the response of the CEMS so that the simulated zero check coincides with the actual zero check performed across the simulated monitor path length. At this time, measure and record the indicated upscale calibration value. The calibration value reading must be within the required opacity range (Section 3.3).

7.1.2 Calibration Attenuator Selection.

Based on the span value specified in the applicable subpart, select a minimum of three calibration attenuators (low, mid, and high range) using Table 1-2.

If the system is operating with automatic path length compensation, calculate the attenuator values required to obtain a system response equivalent to the applicable values shown in Table 1-2; use Equation 1-1 for the conversion. A series of filters with nominal optical density (opacity) values of 0.1(20), 0.2(37), 0.3(50), 0.4(60), 0.5(68), 0.6(75), 0.7(80), 0.8(84), 0.9(88), and 1.0(90) are commercially available. Within this limitation of filter availability, select the calibration attenuators having the values given in Table 1-2 or having values closest to those calculated by Equation 1-1.

$$D_1 = D_2 (L_1/L_2) \quad (\text{Eq. 1-1})$$

TABLE 1-2.—REQUIRED CALIBRATION ATTENUATOR VALUES (NOMINAL)

Span value (percent opacity)	Calibrated attenuator optical density (equivalent opacity in parentheses)— D_1		
	Low-range	Mid-range	High-range
40.....	0.05 (11)	0.1 (20)	0.2 (37)
50.....	0.1 (20)	0.2 (37)	0.3 (50)
60.....	0.1 (20)	0.2 (37)	0.3 (50)
70.....	0.1 (20)	0.3 (50)	0.4 (60)
80.....	0.1 (20)	0.3 (50)	0.6 (75)
90.....	0.1 (20)	0.4 (60)	0.7 (80)
100.....	0.1 (20)	0.4 (60)	0.9 (87.5)

Where:

D_1 = Nominal optical density value of required mid, low, or high range calibration attenuators.

D_2 = Desired attenuator optical density output value from Table 1-2 at the span required by the applicable subpart.

L_1 = Monitor path length.

L_2 = Emission outlet path length.

7.1.3 Attenuator Calibration. Select a laboratory calibration spectrophotometer meeting the specifications of Section 3.4. Using this calibration spectrophotometer, calibrate the required filters or screens. Make measurements at wavelength intervals of 20 nm or less. As an alternative procedure, use the calibration spectrophotometer to measure the C.I.E. Daylight_c luminous transmittance of the attenuators. Check the attenuators several times, at different locations on the attenuator.

The attenuator manufacturer must specify the period of time over which the attenuator values can be considered stable, as well as any special handling and storing procedures required to enhance attenuator stability. To assure stability, recheck attenuator values at intervals less than or equal to the period stability guaranteed by the manufacturer. Recheck at least every 3 months. If desired,

perform the stability checks with an instrument (secondary) other than the calibration spectrophotometer. This secondary instrument must be a high-quality laboratory transmissometer or spectrophotometer, and the same instrument must always be used for the stability checks. If a secondary instrument is to be used for stability checks, the value of the calibrated attenuator must be measured on this secondary instrument immediately following initial calibration. If over a period of time an attenuator value changes by more than ± 2 percent opacity, recalibrate the attenuator on the calibration spectrophotometer or replace it with a new attenuator.

If this procedure is conducted by the filter or screen manufacturer or by an independent laboratory, obtain a statement certifying the values and certifying that the specified procedure, or equivalent, is used.

7.1.4 Calibration Error Test. Insert the calibration attenuators (low, mid, and high range) in the transmissometer path at or as near the midpoint of the path as feasible. Place the attenuator in the measurement path at a point where the effluent will be measured; i.e., do not place the calibration attenuator in the instrument housing. If the instrument manufacturer recommends a procedure wherein the attenuators are placed in the instrument housing, the manufacturer must provide data showing this alternative procedure is acceptable. While inserting the attenuator, assure that the entire beam received by the detector will pass through the attenuator and that the attenuator is inserted in a manner which minimizes interference from reflected light. Make a total of five nonconsecutive readings for each filter. Record the monitoring system output readings in percent opacity (see example Figure 1-6). Then, if the path length is not adjusted by the measurement system, subtract the actual calibration attenuator value from the value indicated by the measurement system recorder for each of the 15 readings obtained. If the path length is adjusted by the measurement system, subtract the "path adjusted" calibration attenuator values from the values indicated by the measurement system recorder (the "path adjusted" calibration attenuator values are calculated using Equation 1-5 or 1-6). Calculate the arithmetic mean difference, standard deviation, and confidence coefficient of the five tests at each attenuator value using Equations 1-2, 1-3, and 1-4 (Sections 8.1-8.3). Calculate the sum of the absolute value of the mean difference and the absolute value of the confidence coefficient for each of the three test attenuators report these three values as the calibration error.

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Person Conducting Test _____		Analyzer Manufacturer _____	
Affiliation _____		Model/Serial No. _____	
Date _____		Location _____	
Monitor Pathlength, L ₁ _____		Emission Outlet Pathlength, L ₂ _____	
Monitoring System Output Pathlength Corrected? _____		Yes _____ No _____	

Calibrated Neutral Density Filter Values			
Actual Optical Density (Opacity):		Path Adjusted Optical Density (Opacity):	
Low-Range _____ (_____)		Low-Range _____ (_____)	
Mid-Range _____ (_____)		Mid-Range _____ (_____)	
High-Range _____ (_____)		High-Range _____ (_____)	

Run Number	Calibration Filter Value (Path-Adjusted Percent Opacity)	Instrument Reading (Opacity), percent	Arithmetic Difference (Opacity), percent		
			Low	Mid	High
1 - Low				-	-
2 - Mid			-		-
3 - High			-	-	
4 - Low				-	-
5 - Mid			-		-
6 - High			-	-	
7 - Low				-	-
8 - Mid			-		-
9 - High			-	-	
10 - Low				-	-
11 - Mid			-		-
12 - High			-	-	
13 - Low				-	-
14 - Mid			-		-
15 - High			-	-	
Arithmetic Mean (Equation 1-2): $\bar{X}$ Confidence Coefficient (Equation 1-4): CC Calibration Error $ \bar{X} + CC $			X	X	X

Figure 1-6. Calibration error determination.

7.1.5 *System Response Test.* Insert the high-range calibration attenuator in the transmissometer path five times, and record

the time required for the system to respond to 95 percent of final zero and high-range filter values (see example Figure 1-7). Then

calculate the mean time of the 10 upscale and downscale tests and report this value as the system response time.

Person Conducting Test _____ Affiliation _____ Date _____	Analyzer Manufacturer _____ Model/Serial No. _____ Location _____						
<table style="width: 100%;"> <tr> <td style="width: 40%;">High Range Calibration Filter Value:</td> <td style="width: 30%;">Actual Optical Density (Opacity) (_____)</td> <td style="width: 30%;"></td> </tr> <tr> <td></td> <td>Path Adjusted Optical Density (Opacity) (_____)</td> <td></td> </tr> </table> Upscale Response Value ($0.95 \times$ filter value) _____ percent opacity Downscale Response Value ($0.05 \times$ filter value) _____ percent opacity		High Range Calibration Filter Value:	Actual Optical Density (Opacity) (_____)			Path Adjusted Optical Density (Opacity) (_____)	
High Range Calibration Filter Value:	Actual Optical Density (Opacity) (_____)						
	Path Adjusted Optical Density (Opacity) (_____)						
<table style="width: 100%;"> <tr> <td style="width: 35%; vertical-align: top;">Upscale</td> <td style="width: 65%;"> 1 _____ seconds 2 _____ seconds 3 _____ seconds 4 _____ seconds 5 _____ seconds </td> </tr> <tr> <td style="vertical-align: top;">Downscale</td> <td> 1 _____ seconds 2 _____ seconds 3 _____ seconds 4 _____ seconds 5 _____ seconds </td> </tr> <tr> <td colspan="2" style="text-align: right; padding-top: 10px;"> Average response _____ seconds </td> </tr> </table>		Upscale	1 _____ seconds 2 _____ seconds 3 _____ seconds 4 _____ seconds 5 _____ seconds	Downscale	1 _____ seconds 2 _____ seconds 3 _____ seconds 4 _____ seconds 5 _____ seconds	Average response _____ seconds	
Upscale	1 _____ seconds 2 _____ seconds 3 _____ seconds 4 _____ seconds 5 _____ seconds						
Downscale	1 _____ seconds 2 _____ seconds 3 _____ seconds 4 _____ seconds 5 _____ seconds						
Average response _____ seconds							

Figure 1-7. Response time determination.

7.2 Preliminary Field Adjustments. Install the CEMS on the affected facility according to the manufacturer's written instructions and the specifications in Section 4, and perform the following preliminary adjustments:

7.2.1 Optical and Zero Alignment. When the facility is not in operation, optically align the light beam of the transmissometer upon the optical surface located across the duct or stack (i.e., the retroreflector or photodetector, as applicable) in accordance with the manufacturer's instructions; verify the alignment with the optical alignment site. Under clear stack conditions, verify the zero alignment (performed in Section 7.1.1) by assuring that the monitoring system response for the simulated zero check coincides with the actual zero measured by the transmissometer across the clear stack. Adjust the zero alignment, if necessary. Then, after the affected facility has been started up and the effluent stream reaches normal operating temperature, recheck the optical alignment. If the optical alignment has shifted, realign the optics. Note: Careful consideration should be given to whether a "clear stack" condition exists. It is suggested that the stack be monitored and the data output (instantaneous real-time basis) be examined to determine whether fluctuations from zero opacity are occurring before a clear stack condition is assumed to exist.

7.2.2 Optical and Zero Alignment (Alternative Procedure). The procedure given in 7.2.1 is the preferred procedure and should be used whenever possible; however, if the facility is operating and a zero stack condition cannot practicably be obtained, use the zero alignment obtained during the preliminary adjustments (Section 7.1.1) before installing the transmissometer on the stack. After completing all the preliminary adjustments and tests required in Section 7.1, install the system at the source and align the optics, i.e., align the light beam from the transmissometer upon the optical surface located across the duct or stack in accordance with the manufacturer's instruction. Verify the alignment with the optical alignment site. The zero alignment conducted in this manner must be verified and adjusted, if necessary, the first time a clear stack condition is obtained after the

operation test period has been completed.

7.3 Conditioning Period. After completing the preliminary field adjustments (Section 7.2), operate the CEMS according to the manufacturer's instructions for an initial conditioning period of not less than 168 hours while the source is operating. Except during times of instrument zero and upscale calibration checks, the CEMS must analyze the effluent gas for opacity and produce a permanent record of the CEMS output. During this conditioning period there must be no unscheduled maintenance, repair, or adjustment. Conduct daily zero calibration and upscale calibration checks; and, when accumulated drift exceeds the daily operating limits, make adjustments and clean the exposed optical surfaces. The data recorder must reflect these checks and adjustments. At the end of the operational test period, verify that the instrument optical alignment is correct. If the conditioning period is interrupted because of source breakdown (record the dates and times of process shutdown), continue the 168-hour period following resumption of source operation. If the conditioning period is interrupted because of monitor failure, restart the 168-hour conditioning period when the monitor becomes operational.

7.4 Operational Test Period. After completing the conditioning period, operate the system for an additional 168-hour period. The 168-hour operational test period need not follow immediately after the 168-hour conditioning period. Except during times of instrument zero and upscale calibration checks, the CEMS must analyze the effluent gas for opacity and must produce a permanent record of the CEMS output. During this period, there will be no unscheduled maintenance, repair, or adjustment. Zero and calibration adjustments, optical surface cleaning, and optical realignment may be performed (optional) only at 24-hour intervals or at such shorter intervals as the manufacturer's written instructions specify. Automatic zero and calibration adjustments made by the CEMS without operator intervention or initiation are allowable at any time. During the operational test period, record all adjustments, realignments, and lens cleanings. If the operational test period

is interrupted because of source breakdown, continue the 168-hour period following resumption of source operation. If the test period is interrupted because of monitor failure, restart the 168-hour period when the monitor becomes operational. During the operational test period, perform the following test procedures:

7.4.1 Zero Drift Test. At the outset of the 168-hour operational test period, record the initial simulated zero (or no greater than 10 percent) and upscale opacity readings (see example Figure 1-8). After each 24-hour interval, check and record the final zero reading before any optional or required cleaning and adjustment. Zero and upscale calibration adjustments, optical surface cleaning, and optical realignment may be performed only at 24-hour intervals (or at such shorter intervals as the manufacturer's written instructions specify), but are optional. However, adjustments and cleaning must be performed when the accumulated zero calibration or upscale calibration drift exceeds the 24-hour drift specification (± 2 percent opacity). If no adjustments are made after the zero check, record the final zero reading as the initial zero reading for the next 24-hour period. If adjustments are made, record the zero value after adjustment as the initial zero value for the next 24-hour period. If the instrument has an automatic zero compensation feature for dirt accumulation on exposed lenses and the zero value cannot be measured before compensation is entered, then record the amount of automatic zero compensation (as opacity) for the final zero reading of each 24-hour period. (List the indicated zero values of the CEMS in parenthesis.) From the initial and final zero readings, calculate the zero drift for each 24-hour period. Then calculate the arithmetic mean, standard deviation, and confidence coefficient of the 24-hour zero drift and the 95 percent confidence interval using Equations 1-2, 1-3, and 1-4. Calculate the sum of the absolute value of the mean and the absolute value of the confidence coefficient, and report this value as the 24-hour zero drift.

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7.4.2 Upscale Drift Test. At each 24-hour interval, after the zero calibration value has been checked and any optional or required adjustments have been made, check and record the simulated upscale calibration value. If no further adjustments are made to the calibration system at this time, record the final upscale calibration value as the initial upscale value for the next 24-hour period. If an instrument span adjustment is made, record the upscale value after adjustment as the initial upscale value for the next 24-hour period. From the initial and final upscale readings, calculate the upscale calibration drift for each 24-hour period. Then calculate the arithmetic mean, standard deviation, and confidence coefficient of the 24-hour calibration drift and the 95 percent confidence interval using Equations 1-2, 1-3, and 1-4. Calculate the sum of the absolute value of the mean and the absolute value of the confidence coefficient, and report this value as the 24-hour calibration drift.

8. Equations

8.1 Arithmetic Mean. Calculate the mean, $\bar{x}$, of a set of data as follows:

$$\bar{x} = \frac{1}{n} \sum_{i=1}^n x_i \quad (\text{Eq. 1-2})$$

Where:

n = Number of data points.

$\sum_{i=1}^n x_i$ = Algebraic sum of the individual measurements, x_i

8.2 Standard Deviation. Calculate the standard deviation S_d as follows:

$$S_d = \sqrt{\frac{\sum_{i=1}^n x_i^2 - \frac{(\sum_{i=1}^n x_i)^2}{n}}{n-1}} \quad (\text{Eq. 1-3})$$

8.3 Confidence Coefficient. Calculate the 2.5 percent error confidence coefficient (one-tailed), CC, as follows:

$$CC = 0.975 \frac{S_d}{\sqrt{n}} \quad (\text{Eq. 1-4})$$

Where:

0.975 = t-value (see Table 1-3).

8.4 Error. Calculate the error (i.e., calibration error, zero drift, and calibration drift), Er, as follows:

$$Er = |\bar{x}| + |CC| \quad (\text{Eq. 1-5})$$

TABLE 1-3.—T-VALUES

n*	0.975	n*	0.975	n*	0.975
2	12.706	7	2.447	12	2.201
3	4.303	8	2.365	13	2.179
4	3.182	9	2.306	14	2.160
5	2.776	10	2.262	15	2.145
6	2.571	11	2.228	16	2.131

* The values in this table are already corrected for $n-1$ degrees of freedom. Use n equal to the number of individual values.

8.5 Conversion of Opacity Values from Monitor Path Length to Emission Outlet Path Length. When the monitor path length is different than the emission outlet path length, use either of the following equations to convert from one basis to the other (this conversion may be automatically calculated by the monitoring system):

$$\log(1 - Op_2) = (L_e/L_m) \log(1 - Op_1) \quad (\text{Eq. 1-6})$$

$$D_2 = (L_e/L_m) D_1 \quad (\text{Eq. 1-7})$$

Where:

Op_1 = Opacity of the effluent based upon L_m .

Op_2 = Opacity of the effluent based upon L_e .

L_m = Monitor path length.

L_e = Emission outlet path length.

D_1 = Optical density of the effluent based upon L_m .

D_2 = Optical density of the effluent based upon L_e .

9. Reporting

Report the following (summarize in tabular form where appropriate).

9.1 General Information

- Facility being monitored.
- Person(s) responsible for operational and conditioning test periods and affiliation.
- Instrument manufacturer.
- Instrument model number.
- Instrument serial number.
- Month/year manufactured.
- Schematic of monitoring system measurement path location.
- Monitor pathlength, meters.
- Emission outlet pathlength, meters.
- System span value, percent opacity.
- Upscale calibration value, percent opacity.

l. Calibrated Attenuator values (low, mid, and high range), percent opacity.

9.2 Design Specification Test Results

- Peak spectral response, nm.
- Mean spectral response, nm.
- Response above 700 nm, percent of peak.
- Response below 400 nm, percent of peak.
- Total angle of view, degrees.
- Total angle of projection, degrees.
- Results of optical alignment site test.
- Serial number, month/year of

manufacturer for unit actually tested to show design conformance.

9.3 Performance Specification Test Results

- Calibration error, high-range, percent opacity.
- Calibration error, mid-range, percent opacity.
- Calibration error, low-range, percent opacity.
- Response time, seconds.
- 24-hour zero drift, percent opacity.
- 24-hour calibration drift, percent opacity.
- Lens cleanings, clock time.
- Optical alignment adjustments, clock time.

9.4 Statements. Provide a statement that the conditioning and operational test periods were completed according to the requirements of Sections 7.3 and 7.4. In this statement, include the time periods during which the conditioning and operational test periods were conducted.

9.5 Appendix. Provide the data tabulations and calculations for the above tabulated results.

10. Retest.

If the CEMS operates within the specified performance parameters of Table 1-1, the PS tests will be successfully concluded. If the CEMS fails one of the preliminary tests, make the necessary corrections and repeat the performance testing for the failed specification prior to conducting the operational test period. If the CEMS fails to meet the specifications for the operational test period, make the necessary corrections and repeat the operational test period; depending on the correction made, it may be necessary to repeat the design and preliminary performance tests.

11. Bibliography

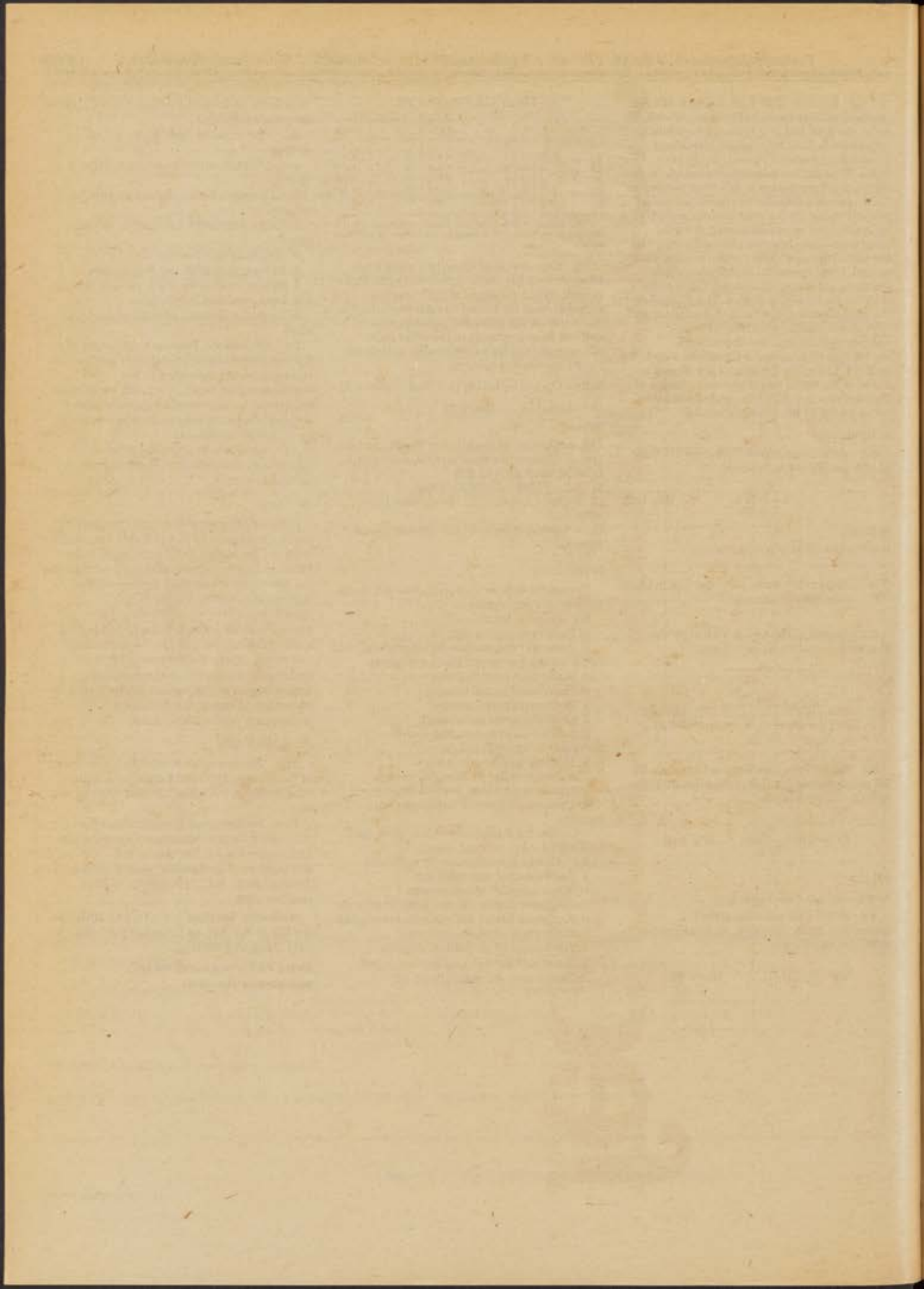
11.1 Experimental Statistics. Department of Commerce, National Bureau of Standards Handbook 91, Paragraph 3-3.1.4 1963, pp. 3-31.

11.2 Performance Specifications for Stationary-Source Monitoring Systems for Gases and Visible Emissions. U.S. Environmental Protection Agency, Research Triangle Park, N.C. EPA-650/2-74-013, January 1974.

Authority: Sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

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federal register

**Wednesday
March 30, 1983**

Part III-

Office of Personnel Management

**Performance Management System;
Proposed Rulemaking**

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 300, 335, 430, 431, 451,
531, 532, 540

Performance Management System

AGENCY: Office of Personnel
Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing revisions and additions to regulations to implement Performance Management including a Performance Based Incentive System for the General Schedule. This new system is designed to enable agencies to pay employees based on individual job performance.

Performance management would be part of each agency's overall management system. The purposes are: (1) Better management of the Federal workforce; (2) alignment of pay with performance through a Performance Based Incentive System; (3) greater consistency among the General Schedule, Merit Pay, and Senior Executive Service performance appraisal and pay systems; (4) efficient achievement of agency goals; (5) reduced paperwork; and (6) increased flexibility and accountability in agency management of performance.

The effect of this system will be that each agency must have one Performance Management Plan that will address the requirements of this System to provide a

compatible structure for performance management goals.

DATE: Comments on the proposed rule must be received by May 31, 1983.

ADDRESS: Send or deliver written comments to: John W. Fossum, Assistant Director for Performance Management, Workforce Effectiveness and Development Group, Office of Personnel Management, 1900 E Street NW., Room 7520, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Kathleen Connelly, 202-632-7630.

SUPPLEMENTARY INFORMATION: These regulations constitute proposed revisions to 5 CFR Parts 300, 335, 430, 451, 531, 532 and 540, that would be required to implement the Performance Management System.

The following is a brief description of the most substantive changes involved.

In Part 300 a new restriction on time-in-grade would be imposed.

In Part 335 new eligibility requirements for career ladder promotions would be set forth.

Part 430 would be changed in its entirety and deals with requirements and use of performance appraisal.

In Part 451 major deletions would be made, primarily dealing with cash awards.

In Part 531 three major areas of change to implement a Performance Based Incentive System (PBIS) would be involved:

(1) Definition and use of "acceptable level of competence";

(2) Requirements and use of Quality Step Increases; and

(3) Requirements and use of performance awards.

In Part 532 an addition would be made to reference the major changes in Parts 451 and 531.

Part 540 would be changed in its entirety although the most substantive changes deal with requirements for merit pay increases.

A new Part 431 would be added that deals with requirements and use of performance appraisal for Senior Executive Service personnel.

The purposes of the proposed regulations on the Performance Management System are: (1) To integrate performance management into the overall management processes of the agencies; (2) to bring about as much consistency as possible among the performance appraisal and compensation systems of the General Schedule, Merit Pay and Senior Executive Service; (3) to establish a PBIS for the General Schedule; (4) to enable agencies to achieve their goals more effectively; and (5) to reduce the paperwork burden while increasing supervisory flexibility and accountability in the management of performance.

In view of the expected broad impact of these proposed regulations, OPM will give particularly serious consideration to comments and suggestions during the comment period. OPM staff is continuing to review the organization of all the regulations.

The following is additional supplementary information on proposed changes to the regulations:

5 CFR Part 430, SUBPARTS B AND C

Proposed rule	Current rule	Explanation and justification
§ 430.201	None	Proposed rule states that purpose of performance appraisal as a tool for executing basic management responsibilities.
§ 430.202	§ 430.201	No change.
§ 430.203(a)	§ 430.202(a)	No change.
§ 430.203(b)	§ 430.202(b)	Proposed rule revises the definition of the word "performance" by linking the term to the requirement for appraisal of critical elements.
§ 430.203(c)	§ 430.202(c)	Proposed rule revises the definition of the word "appraisal" to indicate that appraisal means the act or process of reviewing and evaluating the performance of an employee.
§ 430.203(d)	None	Proposed rule adds a definition of the word "rating" to mean the written record of performance prepared for each critical element and the written summary appraisal.
§ 430.203(e)	§ 430.202(e)	Proposed rule revises the definition of the phrase "critical element" by eliminating references to specific personnel actions. The revised definition indicates that a critical element should be a component of a job which must be performed acceptably if an employee is to make an acceptable contribution to the achievement of organizational goals and objectives. The revised definition does not contain the vague phrase "below the minimum standard established by management."

5 CFR Part 430, SUBPARTS B AND C—Continued

Proposed rule	Current rule	Explanation and justification
§ 430.203(f)	§ 430.202(d)	Proposed rule revises the definition of "performance standard" by deleting the vague phrase "level of achievement." The more specific term "requirements" is used. The revised definition also deletes the word "element" which could be confused with critical elements: The word "factors" is used instead. The revised definition clarifies the concept that performance standards are established at a particular rating level for a critical element.
§ 430.203(g)	None	Proposed rule adds a definition of "Performance Plan" to mean the written critical elements and performance standards given to an employee.
§ 430.203(h)	§ 430.202(f)	Proposed rule provides a more complete definition of "appraisal period." The new definition indicates that an appraisal period is a period of time for which an appraisal will be given, not just a period of time for which an employee's performance will be reviewed.
§ 430.204(a)	§ 430.203(a)	No change.
§ 430.204(b)	None	Proposed rule provides that only critical elements may be included in a Performance Plan. Proposed rule requires a rating on each critical element and a summary rating and indicates that summary ratings must be based on overall performance. The rule prohibits the use of non-critical elements and sub-elements, which add unnecessary time and paperwork requirements to performance appraisal and which cannot form the basis for personnel actions.
§ 430.204(c)	None	Proposed rule requires that all agency appraisal systems provide for five rating levels for critical elements and five summary rating levels. The required names for the five rating levels are specified. This rule will enable OPM and agencies to specify linkages between performance and personnel actions since it requires sufficient performance distinctions and standardized rating levels.
§ 430.204(d)	None	Proposed rule provides generic definitions for the five required rating levels. The rule provides that performance standards and agency procedures for deriving summary ratings must be consistent with the generic definitions. Generic definitions will provide a basis for evaluation of performance standards and appraisals. The job expectations and requirements must be described at the "Fully Successful" level.
§ 430.204(e)	§ 430.203(b)	No change.
§ 430.204(f)	§ 430.203(c)	Proposed rule requires that performance standards and critical elements be related to an employee's assigned work. Since position descriptions may sometimes be outdated or incomplete, the wording of the current rule could jeopardize an otherwise justified personnel action.
None	§ 430.203(d)	Deletes rule which prohibits a preestablished distribution of expected levels of performance.
§ 430.204(g)	§ 430.203(e)	Proposed rule requires that non-merit pay employees be given performance ratings within 60 days prior to the end of a waiting period for a within-grade or step increase. This change will ensure that within-grade increase and step increase decisions are based on current performance ratings. This revised rule also requires agencies to establish a minimum appraisal period of not less than 90 calendar days. This requirement will ensure that employees are not given a performance rating before they have worked long enough to permit an accurate rating.
§ 430.204(h)	§ 430.203(f)	Proposed rule adds a requirement that critical elements and performance standards be reviewed and approved by a supervisor or manager at a higher level than the appraising official. Higher level review of critical elements and performance standards will help ensure that supervisors who appraise employees are held accountable for identification of critical elements and preparation of appropriate performance standards.
§ 430.204(i)	§ 430.203(g)	Proposed rule adds a requirement that periodic performance ratings and performance based personnel actions be reviewed and approved by a supervisor or manager at a higher level than the appraising official. This rule will help ensure that supervisors are held accountable for accurate appraisals which reflect individual contributions to organizational objectives. Proposed rule also provides that performance ratings may not be communicated to employees prior to approval by a higher level reviewer.
§ 430.204(j)	None	Proposed rule states that an employee may not grieve or appeal a performance rating. The assignment of a performance rating is a management right under 5 U.S.C. 7106(a).

5 CFR Part 430, SUBPARTS B AND C—Continued

Proposed rule	Current rule	Explanation and justification
§ 430.204(k)	§ 430.203(h)	Proposed rule requires that employees be given critical elements and performance standards at the beginning of long details and temporary assignments within the same agency. The revised rule also requires that employees be given performance ratings at the end of long details or temporary assignments and that the ratings be considered in deriving an employee's summary rating for the appraisal period. The current rule on appraising performance while employees are on details or temporary assignments is vague.
§ 430.204(l)	None	Proposed rule provides that, when an employee is detailed or temporarily assigned outside the agency, the agency shall either extend the employee's rating of record or obtain relevant appraisal information from the agency or organization to which the employee is detailed or temporarily assigned. This rule will permit performance based personnel decisions to be made for these employees.
§ 430.204(m)	§ 430.203(i)	Proposed rule does not change current rule except by addition of a reference to performance ratings.
None	§ 430.204	Deletes rule which prescribes statements to be included in appraisal system documentation. Section 430.207 provides that agencies must submit information requested by OPM. OPM will provide additional guidance on the content of Performance Management Plans in Federal Personnel Manual issuances.
§ 430.205	§ 430.205	No change.
§ 430.206	§ 430.206	Proposed rule revises current rule on OPM review of appraisal systems, which will not be included in Performance Management Plans. The revised rule clarifies the concept that OPM review of appraisal systems includes a review of whether agencies are meeting all legal and regulatory requirements.
§ 430.207	None	Proposed rule requires agencies to submit Performance Management Plans, and changes to Plans, to OPM for review and approval. The rule describes the content of Performance Management Plans. The Plans will state a uniform and comprehensive agency policy for appraising performance and use of appraisals to ensure that pay distinctions among employees are in keeping with work and performance distinctions.
§ 430.301	§ 430.301	Deletes rule which provided instructions on initial implementation of performance appraisal systems by October 1, 1981. New rule provides that agencies must submit Performance Management Plans to OPM for review within 120 days after final publication of these regulations. The new rule also requires agencies to implement Performance Management Plans within 180 days after final publication of these regulations.
§ 430.302	§ 430.302	Deletes rule which provided interim instructions for appraising performance before agency appraisal systems were initially approved. New rule provides authority for agencies to continue to use approved appraisal and merit pay systems for 180 days after final publication of these regulations.

5 CFR PART 300, SUBPART F; 5 CFR PART 335, SUBPART A; 5 CFR PART 531, SUBPARTS D & E

Proposed rule	Current rule	Explanation and justification
§ 300.602	§ 300.602(a)	Proposed rule adds reference to additional eligibility requirements in § 335.104 and modifies time-in-grade restrictions for positions at GS-6 and above to emphasize that one year is only a minimum.
§ 335.104(a)		Proposed rule adds requirement for minimum of "Fully Successful" rating for career ladder promotions.
§ 335.104(b)		Proposed rule adds requirement for one year in grade for eligibility for career ladder promotion with rating of "Outstanding".
§ 335.104(c)		Proposed rule adds requirement for two years on grade for eligibility for career ladder promotion with rating of "Exceeds Fully Successful".
§ 335.104(d)		Proposed rule adds requirement for three years in grade for eligibility for career ladder promotion with rating of "Fully Successful".
Part 531	Part 531	Proposed rule changes the title of Part 531 to "Performance Based Incentive System of the General Schedule."
§ 531.401	§ 531.401	Proposed rule restates the principal authorities for the regulations on this subpart.
§ 531.402	§ 531.402	No change.
§ 531.403	§ 531.403	Proposed rule revises definition of "acceptable level of competence" (ALOC) to delete reference to specific performance levels.

5 CFR PART 300, SUBPART F; 5 CFR PART 335, SUBPART A; 5 CFR PART 531, SUBPARTS D & E—Continued

Proposed rule	Current rule	Explanation and justification
§ 531.404	§ 531.404	Proposed rule revises the title of the section and rearranges the subsections to emphasize that employees must earn within-grade increases.
§ 531.404(a)(1)	§ 531.404(c)	Proposed rule limits acceptable level of competence of "Fully Successful" to employees in steps 1 through 6 of a grade.
§ 531.404(a)(2)	§ 531.404(c)	Proposed rule adds requirement for acceptable level of competence of "Exceeds Fully Successful" for employees in steps 7 through 9 of a grade.
§ 531.404(b)&(c)	§ 531.404(a)&(b)	No change.
§ 531.405	§ 531.405	No change.
§ 531.406	§ 531.406	No change.
§ 531.407	§ 531.407	No change.
§ 531.408	§ 531.408	No change.
§ 531.409(b)	§ 531.409(b)	Proposed rule (1) modifies performance appraisal for ALOC determination from performance during entire waiting period to the current appraisal; and (2) requires appraisal of performance at lower grade for an employee downgraded for unacceptable performance and in the new job for the minimum agency appraisal period.
§ 531.409(c)	§ 531.409(b)	Proposed rule requires delay in ALOC determination when employee has not had the minimum time established by the agency to demonstrate performance because of lack of performance standards. Deletes requirement for additional documentation of negative determination.
§ 531.409(d)	§ 531.409(d)	Proposed rule adds the following to the reasons for waiver of ALOC determination: (1) details to another agency or employer; (2) long term training; and (3) recent transfer from another agency. Changes time requirement to minimum agency appraisal period.
§ 531.410	§ 531.410	No change.
§ 531.411	§ 531.411	Proposed rule clarifies language requiring reevaluation of ALOC after no more than 52 weeks after withholding within-grade increase.
§ 531.412	§ 531.412	No change.
§ 531.413	§ 531.413	No change.
§ 531.503	§ 531.503	Proposed rule modifies statement of purpose of Quality Step Increases (QSI).
§ 531.504	§ 531.504	Proposed rule changes requirements for QSI to (1) "Outstanding" rating only; (2) mandatory QSI for "Outstanding" rating when employee is in steps one through three; and (3) optional for "Outstanding" employee in steps four through nine. Specifies that agencies may not make QSI awards mandatory for employees in steps four through nine.
	§ 531.505	Deletes section. Performance appraisal is sufficient documentation for QSI.
§ 531.505(a)	§ 531.506(b)&(c)	Proposed rule deletes requirements for agency determination that (1) employee will remain in same position for 60 days; and (2) employee will continue to perform at the same level in the future.
§ 531.506	§ 531.507	Proposed rule sets effective date of mandatory QSI's to be concurrent with the first within-grade increase after approval of the "Outstanding" performance rating. Optional QSI's are effective on the same date as comparability and merit pay increases.
§ 531.507	§ 531.508	Proposed rule requires that (1) agencies include a plan for awarding QSI's in their Performance Management Plan; (2) agency plans include procedures for distributing QSI's authorized by the annual OPM funding table; and (3) the plan be approved by OPM. Deletes requirement for training of supervisors and managers in use of QSI's.
§ 531.508	§ 531.509	No change.
§ 532.801		Proposed rule refers to subpart F of Part 531 for performance awards and Part 451 for non-performance related rewards for prevailing rate employees.

5 CFR PART 540

Proposed rule	Current rule	Explanation and justification
§ 540.101	§ 540.101	Proposed rule removes reference to Public Law 95-454 (CSRA).
§ 540.102	None	Proposed rule establishes a definitions section. The statutory definitions of "supervisor" and "management official" are included, as are the previously undefined merit pay terms "determination", "fund", "increase", and "pool".
§ 540.103	§ 540.102	No substantive changes to the ranges of basic pay and employee coverage.

5 CFR PART 540—Continued

Proposed rule	Current rule	Explanation and justification
§ 540.104(a)	§ 540.103(a)	No change to the requirement for agencies to supply OPM with information as needed.
§ 540.104(b)	§ 540.103(b)	No substantive change. Reference is made to "Tables" rather than "Table".
§ 540.104(c)	§ 540.103(c)	The existing regulations require subagency merit pay pools to be funded according to the agency-wide funding method unless organizational accomplishment differences "... determined on the basis of a fair and objective assessment of each organization's performance in relation to that of other organizations ..." are used. The proposed rule would instead expand the alternative funding circumstances to include (1) unusual distributions of performance and (2) the need to accommodate asterisked rates requirements. Any alternative funding method would need to be approved by OPM. This change would enable agencies to grant more uniform and appropriately sized merit pay increases than at present.
§ 540.104(d)	§ 540.103(d)	The ruling of the Comptroller General (decision B-203022, dated September 8, 1981) that immediately payable increases cannot be enhanced by transferring "paper" money from asterisked employee contributions is added at § 540.104(d)(2).
§ 540.105	None	A new section on merit pay performance appraisals is created.
§ 540.105(a)	§ 540.104(b)	The proposed rule would not identify any performance standards content.
§ 540.105(b)	None	This rule would require that the merit pay performance year end no earlier than June 30 nor later than November 30 in order to assure some proximity between the performance and its recognition.
§ 540.105(c)	None	Establishes some OPM performance appraisal requirements for merit pay employees in agencies not generally covered by the performance appraisal law (5 USC Chapter 43).
§ 540.106(a)	§ 540.104(a)	The requirement that the merit pay determination be within 90 days prior to and 60 days after October 1 is changed to be "as close as feasible" to the merit pay increase effective date. The need for more control is met by proposed § 540.105(b) above.
§ 540.106(b)	§ 540.104(h)(1), § 540.105(a)	The time since and the amount of the employee's last increase in pay would <i>have to</i> be considered. Current rules make these considerations optional in general and handle one special case, a recent promotion, through waiver of the merit pay determination. The proposed regulation, as augmented by FPM guidance, would better assure that all pay adjustments received by merit pay employees are considered.
§ 540.106(c)	§ 540.104(c)	This rule would simplify the process by which the merit pay determination of an individual can reflect organizational accomplishment, by eliminating the need to compare organizations.
§ 540.106(d)	None	The concept of managing merit pay and performance appraisal is added to regulation, specifically in connection with obtaining appropriately sized merit pay increases. (See § 540.106(e) below).
§ 540.106(e)	§ 540.104(e)	The requirement for second-level "concurrence" of the merit pay determination is changed to "approval" and the merit pay pool manager's approval is added. Major difficulties and inequities resulted when merit pay was first implemented due to indiscriminate and generally inflated merit pay determinations. Control at the pool level can eliminate these difficulties.
None	§ 540.104(d)	Specific reference to the § 540.105(a) prohibition of a preestablished or forced distribution of performance or increase amount would be eliminated. The effect of the existing language to date has been largely one of confusion and misdirected emphasis.
§ 540.106(f)	§ 540.104(f)	No change.
§ 540.106(g)	§ 540.104(h)	The merit pay determination waiver provisions would be simplified. Rather than referring to situations where the employee would not be under a performance appraisal system because of absence or otherwise, reference is made to the fact that an employee cannot be appraised. Aside from being more direct, the proposed rule would eliminate the confusion caused when an employee cannot be excluded from the performance appraisal system, but cannot actually be appraised either.
§ 540.107(a)	§ 540.105(b)	No substantive change.
§ 540.107(b)	§ 540.105(c)	No substantive change.
§ 540.107(c)	None	Introduces in regulation the concept of adjusting, or "discounting", merit pay increases to compensate for extra automatic increases to compensate for extra automatic increases required to raise some employee pay rates to the revised range minimum. (Technical amendment only.)
§ 540.107(d)	None	Places in regulation a requirement for agencies to prevent pay inversions or "crossover" from occurring. (Technical amendment only.)

5 CFR PART 540—Continued

Proposed rule	Current rule	Explanation and justification
§ 540.108(a)	§ 540.106(a)	This proposal would broaden the existing provision which requires that the individual whose performance related pay determination is waived receive "the average increase received by comparably situated employees." Other amounts which could be scheduled for persons who cannot be appraised would be (1) a constructed average (2) an amount associated with a predetermined appraisal level (3) the balance of the general GS increase amount (4) the merit pay funding amount. The proposed rule would better accomplish that which was originally intended—to provide for an amount unconditioned by performance level when observed performance is not available.
§ 540.108(b)	§ 540.106 (a) and (b)	This proposal would provide similar procedures for agencies to follow when fixing the pay of persons returning from official absences.
§ 540.108(c)	§ 540.106 (a) and (b)	This provision would provide a common procedure for agencies to follow when fixing the pay of persons who have been absent for service, including the military, for which there are statutory pay entitlements. (Technical amendment only).
§ 540.108(d)	None	This proposal would reduce waiver-associated pay increases the same as performance related increases the same as performance related increases under proposed § 540.107(c). (Technical amendment only.)
§ 540.109(a)	§ 540.107(a)	Reference to regulatory guidance on performance-related awards would be changed to indicate its new proposed location in Subpart F of Part 531.
§ 540.109(b)	§ 540.107(b)	No change.
None	§ 540.107(b)	Cash award provisions here would be replaced by Subpart 531 F material.
None	§ 540.107(d)	The provision for OPM to establish and publish in the FPM procedures for considering agency certifications for cash awards would be eliminated, as it is not necessary.
§ 540.110(a)	§ 540.108(a)	No substantive change.
§ 540.110(b)	§ 540.105(a)	This proposal requires position in the pay range to be use in deciding merit pay increase amounts, and also requires that increases be computed and expressed in terms of a percentage of base pay. The existing rules leave position in the pay range optional and are silent on percentage vs. "points" or shares plans. Position in range is necessary to efficiently align employee pay level with performance.
§ 540.110(c)	None	This proposal would resolve that which is perceived to be the largest problem with the current system—it would guarantee at least the full October GS general increase for all employees rated Fully Successful or higher.
§ 540.110(d)	None	This proposal would restrict access to the upper third of the pay range to Exceeds Fully Successful and Outstanding performers. It is a logical extension of the concept that salary level and not increase amount should be aligned with performance level.
§ 540.110(e)	None	This rule would document current merit pay policy which requires that there be significant differences in the pay increase that an employee will receive for Outstanding rather than Fully Successful performance.
§ 540.110(f)	None	This proposal would establish the basis for an appropriate sized increase for Exceeds Fully Successful performers.
§ 540.110(g)	§ 540.108(b)	Existing rules require 180-day advance submission of any change to an agency merit pay system, as well as any new merit pay plan for agencies not formerly covered. The proposal would reduce that advance period for changes to 60 days. This change would alleviate an unnecessary burden on agencies.
§ 540.110(h)	§ 540.108(b)	This proposal would allow OPM to accept changes to merit pay systems on even a shorter notice when unanticipated events would make such changes prudent. The need for a provision of this type was highlighted in 1981, when there was a last minute change to the amount of available merit pay funds.
§ 540.111	§ 540.109	No substantive change. The provision of law referenced in the existing regulation has been repealed.
None	§ 540.110	Merit pay system implementation rules are no longer necessary.

5 CFR PART 531, SUBPART F—PERFORMANCE AWARDS

Proposed rule	Current rule	Explanation and justification
§ 531.601	None	Proposed rule makes this subpart consistent with other subparts of Part 531.

5 CFR PART 531, SUBPART F—PERFORMANCE AWARDS—Continued

Proposed rule	Current rule	Explanation and justification
§ 531.601(a)	None	Proposed rule contains the legal authority for the performance awards component of the Performance Management System.
§ 531.601(b)	None	Proposed rule requires that a performance award be supported by the employee's performance rating and based on accomplishments and contributions which are within assigned responsibilities and performance standards.
§ 531.601(c)	None	Proposed rule contains the cross reference to 5 CFR, Part 451.
§ 531.602(a)	§ 451.201	Proposed rule transfers this section and amends the statement of the purpose of performance awards.
§ 531.602(b)	§ 451.202	No substantive change. Proposed rule expands the legal authority and refers to performance awards instead of awards.
§ 531.603	None	Proposed rule makes this subpart consistent with other subparts of Part 531.
§ 531.603(a)	§ 451.203	Proposed rule transfers the definition of employee. The definition remains the same.
§ 531.603(b)	§ 451.203	Proposed rule transfers the definition of agency. Definition remains the same.
§ 531.604(a)	§ 451.203	Proposed rule refers to "performance award" instead of "incentive award" and expands the definition to include non-monetary awards.
§ 531.604(b)	§ 451.203	Proposed rule transfers the exact definition of Presidential award, but deletes reference to Section 4507 of title 5, United States Code, which refers to awards for SES employees.
§ 531.604(c)	§ 451.203	Proposed rule transfers and amends the definition of "plan." The amended definition refers to the performance awards component of the Performance Management Plan.
§ 531.605(a)(1)	None	Proposed rule adds a provision that performance awards are monetary, honorary, and non-monetary.
§ 531.605(a)(2)	None	Proposed rule adds a provision that performance awards are based on employee accomplishments which are within the scope of assigned job responsibilities and performance standards.
§ 531.605(a)(3)	None	Proposed rule adds a requirement that performance awards be based on a percentage of the employee's salary, up to a maximum of 15 percent.
§ 531.606(a)	§ 451.207	Proposed rule amends language to delete reference to suggestions and inventions. It refers instead to superior accomplishments and other contributions.
§ 531.606(a)(1)	None	Proposed rule requires that accomplishments or other contributions be within the scope of the employee's assigned job responsibilities and performance standards.
§ 531.606(a)(2)	§ 451.207(a)	Proposed rule transfers requirement that employee accomplishments or other contributions benefit the Government.
§ 531.606(a)(3)	§ 451.207(b)	Proposed rule transfers requirement that accomplishments or other contributions be made while the contributor was a Government employee.
§ 531.606(a)(4)	None	Proposed rule requires that the accomplishments or other contributions be supported by a performance rating of "Fully Successful" or above.
§ 531.606(a)(5)	§ 451.207(d)	Proposed rule transfers and amends requirement that performance awards be approved at a management level higher than the official who recommended it.
§ 531.606(b)	None	Proposed rule states that performance awards shall not be mandatory.
§ 531.607	§ 451.209	Proposed rule provides that awards paid under this subpart do not increase the rate of basic pay and are subject to the withholding of income taxes.
§ 531.608(a)	§ 451.204(c)	Proposed rule transfers to this section the requirement that OPM advise the President on Presidential awards and issue instructions to agencies on how to nominate employees for Presidential awards.
§ 531.608(b)	None	Proposed rule requires that OPM provide agencies a performance award computation table to be used to determine the appropriate amount of funds for performance awards at the agency level.
§ 531.608(c)	None	Proposed rule requires that OPM provide guidance to agencies regarding honorary and non-monetary performance awards.
§ 531.609(a)	§ 451.205(a)	Proposed rule transfers and amends requirement that agency heads establish a performance award component which seeks to gain maximum benefits to the Government through improved employee motivation.
§ 531.609(a)(1)	§ 451.205(a)(2)	Proposed rule transfers and amends requirement that agencies maintain the integrity of the Performance Management System by reviewing the results of the performance awards component.
§ 531.609(a)(2)	§ 451.205(a)(3)	Proposed rule transfers and amends requirement that agencies allocate and adequate budget, staffing and support services to manage performance awards.

5 CFR PART 531, SUBPART F—PERFORMANCE AWARDS—Continued

Proposed rule	Current rule	Explanation and justification
§ 531.609(b)	§ 451.205(b)	Proposed rule transfers a provision that agency heads may delegate the responsibilities under paragraph 531.609(a) of this Subpart.
§ 531.609(c)(1)	§ 451.205(c)(1)	Proposed rule transfers requirement that each agency transmit to OPM award recommendations over \$10,000.
§ 531.609(c)(2)	§ 451.205(c)(2)	Proposed rule transfers requirement that agencies transmit to OPM all recommendations for Presidential awards.
§ 531.609(c)(3)	§ 451.205(c)(3)	Proposed rule transfers and amends requirement that agencies transmit to OPM a Performance Management Plan which includes a performance awards component.
§ 531.609(c)(4)	§ 451.205(c)(4)	Proposed rule transfers and amends requirement that agencies transmit an annual report to OPM on performance awards activities for the past fiscal year.
§ 531.609(d)(1)	§ 451.206(a)	Proposed rule transfers requirement that agencies delegate authority and responsibility for approval of cash, honorary, and non-monetary performance awards to the lowest level consistent with sound management practices.
§ 531.609(d)(2)	§ 451.206(b)	No substantive change; reference is made to Employee Performance File instead of official personnel folder.
§ 531.609(d)(3)	§ 451.206(h)	Proposed rule transfers and amends requirement that agencies use performance appraisal ratings as the basis for granting performance awards. The rule also requires that performance awards be based on superior accomplishments within the scope of the employee's assigned job responsibilities and performance standard.
§ 531.609(d)(4)	None	Proposed rule requires that performance awards be linked to milestones in the performance appraisal cycle.
§ 531.609(d)(5)	§ 451.206(j)	Proposed rule transfers requirement that agencies consider wider application of special achievements and other contributions both within the agency and Governmentwide.

5 CFR PART 451, SUBPART B—SPECIAL AWARDS

Proposed Rule	Current rule	Explanation and justification
None	§ 451.101	Proposed rule deletes the statutory requirements, reproduced in the present regulations as Subpart A. This deletion would avoid unnecessary duplication. Subpart A is now "Reserved," to comply with Federal Register requirements.
§ 451.201(a)	None	Proposed rule adds a new section, Applicability, to make this subpart consistent with Subpart F of Part 531. It requires that special awards be granted for Government employees' suggestions, inventions, and meritorious actions which are not included or measured by established critical elements and performance standards.
§ 451.201(b)	None	Proposed rule requires that special awards be based on employee accomplishments that are clearly beyond assigned job responsibilities and performance standards and are in addition to a performance award granted under 5 CFR, Part 531, Subpart F.
§ 451.201(c)	None	Proposed rule contains cross reference to CFR, Part 531, Subpart F.
§ 451.202(a)	§ 451.201	Proposed rule is amended to require that special awards be granted when the accomplishments and adopted ideas are beyond or outside job responsibilities and performance standards.
§ 451.202(b)	§ 451.202	No substantive change. Proposed rule adds the phrase "for one time suggestions, inventions, and meritorious actions."
§ 451.203	None	Proposed rule adds a new section, Coverage, to make this subpart consistent with 5 CFR, Part 531, Subpart F.
§ 451.203(a)	§ 451.203	Proposed rule transfers the definition of "employee." The definition remains the same.
§ 451.203(b)	§ 451.203	Proposed rule transfers the definition of "Agency." The definition remains the same.
None	§ 451.203	Proposed rule deletes the definition of "plan" because it is no longer needed.
§ 451.204(a)	§ 451.203	Proposed rule refers to "special awards" instead of "incentive awards" and expands the definition to include non-monetary awards.
§ 451.204(b)	§ 451.203	Proposed rule transfers the exact definition of Presidential award, but deletes reference to Section 4507 of title 5, United States Code, which refers to awards for SES employees.
§ 451.204(c)	None	Proposed rule adds definition of tangible benefits.
§ 451.204(d)	None	Proposed rule adds definition of intangible benefits.

5 CFR PART 451, SUBPART B—SPECIAL AWARDS—Continued

Proposed Rule	Current rule	Explanation and justification
§ 451.205(a)(1)	None	Proposed rule adds provision that special awards are monetary, honorary, or non-monetary.
§ 451.205(a)(2)	None	Proposed rule adds requirement that special awards be based on employee accomplishments that are clearly beyond or outside job responsibilities and performance standards.
§ 451.205(a)(3)	None	Proposed rule adds requirement that special awards be based on tangible and intangible benefits to the Government.
§ 451.205(b)	None	Proposed rule requires that agency monetary awards of up to \$10,000, based on tangible benefits, be computed using a mandatory scale.
§ 451.205(b)(1)	None	Proposed rule provides a mandatory scale to compute agency awards of up to \$10,000 based on tangible benefits.
§ 451.205(b)(2)	None	Proposed rule provides a mandatory scale to compute monetary awards of 15, 20, and 25 thousand dollars based on tangible benefits.
§ 451.205(b)(3)	None	Proposed rule provides a mandatory scale to compute Presidential awards based on tangible benefits.
§ 451.205(c)	None	Proposed rule provides that, in addition to special awards based on tangible benefits, special awards may be granted based on intangible benefits.
§ 451.205(c)(1)	None	Proposed rule requires that OPM provide guidance to agencies on how to compute all monetary awards based on intangible benefits.
§ 451.205(d)	None	Proposed rule requires that OPM provide guidance to agencies regarding honorary or non-monetary awards based on tangible and intangible benefits, including honorary Presidential awards.
§ 451.206(a)	§ 451.207	Proposed rule amends language to delete reference to superior accomplishment and refer instead to meritorious action.
§ 451.206(a)(1)	None	Proposed rule provides that special awards are for accomplishments which are clearly beyond or outside assigned job responsibilities and performance standards.
§ 451.206(a)(2)	§ 451.207(a)	No change.
§ 451.206(a)(3)	§ 451.207(b)	No change.
§ 451.206(a)(4)	§ 451.207(c)	No change.
§ 451.206(a)(5); and § 451.206(a)(5)(i)(ii)(iii).	§ 451.207(d)	Proposed rule has been amended by rearranging information alphabetically to help the reader identify specific information. In addition, it replaces the phrase "superior accomplishment" with "meritorious action."
§ 451.206(b)	None	Proposed rule states that special awards shall not be mandatory.
None	§ 451.208(a) and (b)	Proposed rule deletes requirement regarding additional awards when the suggestion, invention, or meritorious action results in a wider application or a greater benefit to the Government. OPM will provide guidance on this subject.
§ 451.207(a)	§ 451.209(a)	Proposed rule amends requirement to the following standard OPM language: special awards paid under this Part do not increase the rate of basic pay.
§ 451.207(b)	§ 451.209(b)	No change.
§ 451.208(a)	None	Proposed rule requires that OPM verify savings and the relationship of contributions to job requirements. It also requires that OPM approve or disapprove recommendations for all awards in excess of \$10,000 on a case-by-case basis, and limit approval of awards to denominations of \$15,000, \$20,000, and \$25,000.
None	§ 451.204(a)	Proposed rule deletes requirement that OPM review agency plans.
None	§ 451.204(b)	Proposed rule deletes requirement that OPM report annually the results of the awards program to the President, Congress, and agencies.
§ 451.208(b)	§ 451.204(c)	Proposed rule is amended to specify the amount to be granted for Presidential awards and provides a scale to be used for computing Presidential awards based on tangible benefits to the Government.
§ 451.209(a)	§ 451.205(a)	Proposed rule is amended to delete requirement that heads of agencies give personal leadership to the special awards program. Rule requires, instead, that they establish a program.
None	§ 451.205(a)(1)	Proposed rule deletes training requirement for employees, supervisors and managers on effective use of awards program.
§ 451.209(a)(1)	§ 451.205(a)(2)	Proposed rule is amended to require that special awards be granted on the basis of tangible and intangible benefits to the Government, and that action be taken to grant awards in a timely manner.
§ 451.209(a)(2)	§ 451.205(a)(3)	Proposed rule is amended to delete reference to employee suggestions and performance award recommendations and refer instead to award recommendations.
§ 451.209(b)	§ 451.205(b)	Proposed rule corrects the citation number from 451.205(a) to 451.209(a).
§ 451.209(c)	§ 451.205(c)	No change.
§ 451.209(c)(1)	§ 451.205(c)(1)	No change.
§ 451.209(c)(2)	§ 451.205(c)(2)	Proposed rule is amended to require that agencies submit to OPM all recommendations for Presidential awards.

5 CFR PART 451, SUBPART B—SPECIAL AWARDS—Continued

Proposed Rule	Current rule	Explanation and justification
None	§ 451.205(c)(3)	Proposed rule deletes requirement for submission of agency plan to OPM.
§ 451.209(c)(3)	§ 451.205(c)(4)	Proposed rule deletes date for agency submission of annual report. It also deletes requirement that the report contain a statement of program goals and objectives for next year.
§ 451.209(d)	§ 451.206	Proposed rule deletes section heading entitled "Agency Plans." Requirements under this section heading were placed under "Agency responsibilities." In addition, proposed rule requires an up-to-date program, instead of an up-to-date plan.
§ 451.209(d)(1)	§ 451.206(a)	No change.
§ 451.209(d)(2)	§ 451.206(b)	No substantial change; reference is made to Employee Performance File instead of official personnel file.
§ 451.209(d)(3)	§ 451.206(c)	No change.
§ 451.209(d)(4)	§ 451.206(d)	Proposed rule deletes reference to performance award recommendations; instead, reference is made to special award recommendations.
None	§ 451.206(e)	Proposed rule deletes requirement for linkage between the special award program and achievement of national and agency goals and objectives; it is redundant.
None	§ 451.206(f)	Proposed rule deletes requirement that agencies use management review and productivity measurement processes to identify and recommend awards for employees. Proposed deletion would simplify awards process.
None	§ 451.206(g)	Proposed rule deletes requirement for immediate awards for performance of one time special acts and services and timely evaluation and processing of performance awards and suggestions.
None	§ 451.206(h)	Proposed rule deletes requirement for awards related to performance. All reference to performance awards has been deleted from this Part and included in Subpart F, Part 531.
None	§ 451.206(i)	Proposed rule deletes requirement that agencies use the special awards program as a criterion to evaluate supervisors and managers. The proposed regulations would not identify any performance standards content.
§ 451.209(d)(5)	§ 451.206(j)	No change.
None	§ 451.206(k)	Proposed rule deletes requirement that awards be a factor in ranking and selecting employees. Requirement is unnecessary.

5 CFR PART 431, SUBPARTS B AND C

Proposed rule	Current rule	Explanation and justification
§ 431.201	None	Proposed rule states the purpose of performance appraisal as a tool for executing basic performance management responsibilities. It is identical to proposed new 5 CFR 430.201.
§ 431.202	None	Proposed rule states that all senior executives are covered by this part.
§ 431.203(a)	None	Proposed rule defines appraisal system. "Appraisal systems" as defined in 5 CFR 430.203(a) is adapted for the SES.
§ 431.203(b)	None	Proposed rule defines the word "performance" by linking the term to the requirement for appraisal of critical elements. This definition is identical to the definition in proposed revision to 5 CFR 430.203(b).
§ 431.203(c) and (d)	None	Proposed rules define "performance appraisal" and "performance rating." The new definitions are consistent with the new requirements that senior executives be given both a rating on each critical element and summary ratings. Rules are identical to proposed revision to 5 CFR 430.203(c) and proposed new (d).
§ 431.203(e) and (f)	None	Proposed rules define the terms "initial rating" and "final rating." These definitions are needed since both terms are used in the new regulations and could be misinterpreted.
§ 431.203(g)	None	Proposed rule defines the term "performance requirement" to clarify the statutory language. This is needed because "requirement" has been interpreted to include both performance elements and standards.
§ 431.203(h)	None	Proposed rule defines critical element. The definition is identical to the definition of critical element in proposed revision to 5 CFR 430.203(e) which eliminates references to specific personnel actions and indicates that a critical element should be a component of a job which must be performed acceptably if a senior executive is to make an acceptable contribution to the achievement of organizational goals and objectives.

5 CFR PART 431, SUBPARTS B AND C—Continued

Proposed rule	Current rule	Explanation and justification
§ 431.203(i)	None	Proposed rule defines "performance standard" and clarifies the concept that performance standards are established at a particular rating level for a critical element. The definition is identical to the definition of performance standard in proposed revision to 5 CFR 430.203(f).
§ 431.203(j)	None	Proposed rule adds a definition of the phrase "Performance Plan" to mean the written critical elements and performance standards given to an employee. Definition is identical to proposed new 5 CFR 430.203(g).
§ 431.203(k)	None	Proposed rule provides a complete definition of "appraisal period". The definition is identical to proposed revision to 5 CFR 430.203(h) which indicates that an appraisal period is a period of time for which an appraisal will be given, not just a period of time for which an executive's performance will be reviewed.
§ 431.203(l)	None	Proposed rule defines the term "appointing authority" to mean agency or department head. This definition is needed because this term is used in the new regulations and could be misinterpreted to mean the "appraising official" or "rating official."
§ 431.204(a)	None	Proposed rule states the statutory requirement for establishment of one or more performance appraisal systems. It is identical to 5 CFR 430.204(a).
§ 431.204(b)	None	Proposed rule states that only critical elements may be included in Performance Plans, and requires an appraisal and a summary rating to be based on overall performance. The rule prohibits the use of non-critical elements and sub-elements which add unnecessary time and paperwork requirements to performance appraisal and which cannot form the basis for personnel actions. Proposed rule parallels proposed new 5 CFR 430.204(b).
§ 431.204(c)	None	Proposed rule requires that all agency appraisal systems provide for five rating levels for critical elements and five summary rating levels. The required names for the five rating levels are specified. This rule will permit agencies to assign a rating at a level even if the standard is not written at that level and to specify linkages between performance and personnel actions because sufficient performance distinctions and standardized rating levels are required. It is identical to proposed new 5 CFR 430.204(c).
§ 431.204(d)	None	Proposed rule requires job expectations and requirements to be described at the "Fully Successful" level and provides generic definitions for the five required appraisal levels. The rule provides that performance standards and agency procedures for deriving summary appraisals must be consistent with the generic definitions. It is identical to proposed new 5 CFR 430.204(d).
§ 431.204(e)	None	Proposed rule reflects statutory requirements that each appraisal system establish performance standards based on the requirements of executives' positions; that critical elements and performance standards be communicated on or before the beginning of each appraisal period; and that performance standards be established in consultation with a senior executive. It parallels 5 CFR 430.204(e).
§ 431.204(f)	None	Proposed rule requires that performance standards and critical elements be related to an executive's assigned work and organizational performance requirements. It is consistent with proposed revision to 5 CFR 430.204(f).
§ 431.204(g)	None	Proposed rule requires that executives be rated on at least an annual basis and that ratings shall be completed no earlier than June 30 or no later than November 30 of the same year. This requirement will ensure that performance based personnel decisions are based on current performance ratings and that performance based pay increases and awards payouts will occur simultaneously with merit payouts. This rule also establishes a minimum appraisal period of not less than 90 days. This requirement will ensure that executives are not rated before they have worked long enough to permit accurate ratings. Proposed rule is compatible with proposed revision to 5 CFR 430.204(g).
§ 431.204(h)	None	Proposed rule requires agencies to provide specific written notification of the following to senior executives: critical elements and performance standards; initial summary rating; any recommendations of any higher level executive review; the right to respond in writing before the rating becomes final. All notifications must be provided to senior executives at the time they are made. All of the notifications above except "any recommendations of any higher level executive review..." are statutory. This notification is needed so appraisal systems do not deprive the executive of the opportunity "to respond in writing before the rating becomes final."

5 CFR PART 431, SUBPARTS B AND C—Continued

Proposed rule	Current rule	Explanation and justification
§ 431.204(i)	None	Proposed rule adds a requirement that critical elements and performance standards be reviewed and approved by an executive at a higher level than the appraising official or by a review committee. Higher level review of critical elements and performance standards will help ensure that supervisory executives are held accountable for identification of critical elements and preparation of appropriate performance standards. Proposed rule is compatible with proposed revision to 5 CFR 430.204(h).
§ 431.204(j)	None	Proposed rule requires that employees be given critical elements and performance standards at the beginning of long details and temporary assignments within the same agency. This rule also requires that executives be rated at the end of long details or temporary assignments and that the ratings be considered in deriving an executive's summary rating for the appraisal period. Proposed rule is identical to proposed revision to 5 CFR 430.204(k).
§ 431.204(k)	None	Proposed rule provides that, when an executive is detailed or temporarily assigned outside the agency, the agency shall obtain relevant appraisal information from the agency or organization to which the executive is detailed or temporarily assigned. This rule will permit performance based personnel decisions to be made for these executives. Because Subchapter II of 5 USC 43 precludes extension of an executive's appraisal of record by the requirement for at least an annual rating, the proposed rule differs slightly from proposed new 5 CFR 430.204(l).
§ 431.204(l)	None	Proposed rule reflects 5 USC 4312(b)(3) which requires that agency systems provide an opportunity for senior executives to respond in writing to an initial appraisal and rating and to have the rating reviewed by an employee in a higher executive level. Proposed rule clarifies the statute and higher level review process by requiring that the "employee in a higher executive level than the supervisory official" conduct the higher level review prior to review by the Performance Review Board (PRB).
§ 431.204(m)	None	Proposed rule reflects statutory requirements for the establishments of Performance Review Boards and also specifies PRB composition, how members are appointed, a conflict of interest rule and a requirement for supporting written justification when the PRB recommendation disagrees with the initial rating.
§ 431.204(n)	None	Proposed rule requires agencies to retain all documentation on performance appraisal decisions for no less than five years from the date of the rating as required by 5 CFR 430.404(b).
§ 431.204(o)	None	Proposed rule states that final performance ratings shall be used to provide a basis for making decisions to remove senior executives from the SES, to reassign or transfer senior executives within the SES, and to grant performance awards to senior executives.
§ 431.205	None	Proposed rule is identical to 5 CFR 430.205. It stipulates training and evaluation requirements.
§ 431.206(a)	None	Proposed rule is compatible with proposed revision to 5 CFR 430.206 which clarifies the concept that OPM review of appraisal systems includes a review of whether agencies are meeting all legal and regulatory requirements.
§ 431.206(b) and (c)	None	Proposed rule stipulates that agencies must submit to OPM revised SES performance appraisal plans which will now be included in Performance Management Plans as well as proposed changes to approved SES Performance Appraisal Plans which impact on how an agency meets legal or regulatory requirements.
§ 431.206(d)	None	Proposed rule permits OPM to direct an agency to implement an appropriate system or correct operations if OPM determines the system does not meet the requirements of 5 USC 43 or of this part.
§ 431.207(a) and (b)	None	Proposed rule requires agencies to submit to OPM for review and approval Performance Management Plans as required by proposed new 5 CFR 430.207 and proposed changes to approved Performance Management Plans which have an impact on how an agency meets legal or regulatory requirements. The Plans will state a uniform and comprehensive agency policy for appraising performance and use of appraisals to ensure that pay distinctions are in keeping with work and performance distinctions.
§ 431.301	None	Proposed rule provides that agencies must submit revised SES performance appraisal plans for review within 120 days after final publication of these regulations.
§ 431.302	None	Proposed rule provides authority for agencies to continue to use approved appraisal systems until 180 days after the publication of these regulations.

In addition to these changes, it may be necessary to make nonsubstantive conforming revisions in Parts 351 and 432, when these performance management regulations are issued in final form.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Government employees.

List of Subjects

5 CFR Part 300

Government employees,
Administrative practice and procedure.

5 CFR Part 335

Government employees.

5 CFR Part 430

Government employees,
Administrative practice and procedure,
Reporting requirements.

5 CFR Part 431

Government employees,
Administrative practice and procedure,
Reporting requirements.

5 CFR Part 451

Decorations, Medals, Awards,
Government employees.

5 CFR Part 531

Government employees, Wages,
Administrative practice and procedure.

5 CFR Part 532

Administrative practice and
procedure, Government employees,
Wages.

5 CFR Part 540

Government employees, Wages,
Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, the Office of Personnel Management proposes to amend Title 5, Code of Federal Regulations, as follows:

PART 300—EMPLOYMENT (GENERAL)

(1) Section 300.602 is revised to read as follows:

Subpart F—Time-in-Grade Restrictions

§ 300.602 Restrictions.

The time-in-grade restrictions in this subpart are subject to the eligibility

requirements based on performance in § 335.104.

(a) Advancement to positions at GS-12 and above. An agency may advance an employee to a position at GS-12 or above only after he or she has served a minimum of 1 year in the next lower grade.

(b) Advancement to positions at GS-6 through GS-11. An agency may advance an employee to a position at GS-6 through GS-11 only after he or she has served a minimum of:

(1) One year in a position two grades lower, when the position to which he or she is advanced is in a line of work properly classified at two-grade intervals; or

(2) One year at the next lower grade when the position to which he or she is advanced is in a line of work properly classified at one-grade intervals.

(c) Advancement to positions at GS-5 or below. An agency may advance an employee to a position at GS-5 or below which is not more than two grades above the lowest grade he or she held within the preceding year under a nontemporary appointment.

(2) § 335.104 is added, to read as follows:

PART 335—PROMOTION AND INTERNAL PLACEMENT

Subpart A—General Provisions

§ 335.104 Eligibility for career ladder promotion.

(a) No employee shall be promoted to a position in a recognized career ladder unless his or her summary rating on the most current performance appraisal under Part 430 of this chapter is "Fully Successful" or higher.

(b) An employee in grade GS-9 and above of the General Schedule with a summary rating of "Outstanding" on the most current performance appraisal under Part 430 of this chapter shall be eligible for promotion to a position in a recognized career ladder after a period of one year in his or her current grade.

(c) An employee in grade GS-9 and above of the General Schedule with a summary rating of "Exceeds Fully Successful" on the most current performance appraisal under Part 430 of this chapter shall be eligible for promotion to a position in a recognized career ladder after a period of two years in his or her current grade.

(d) An employee in grade GS-9 and above of the General Schedule with a summary rating of "Fully Successful" on the most current performance appraisal under Part 430 of this chapter shall be eligible for promotion to a position in a

recognized career ladder after a period of three years in his or her current grade.

(3) Part 430 is revised to read as follows:

PART 430—PERFORMANCE APPRAISAL

Subpart A—Statutory Authority

Sec.

430.101 Statutory authority.

Subpart B—Regulatory Requirements of the Office of Personnel Management

430.201 Purpose.
430.202 Coverage.
430.203 Definitions.
430.204 The performance appraisal process.
430.205 Training and evaluation.
430.206 OPM review of appraisal systems.
430.207 Performance Management Plans.

Subpart C—Implementation and Interim Procedures

430.301 Implementation of this part.
430.302 Interim procedures.

Authority: 5 U.S.C. 4305.

Subpart A—Statutory Authority

§ 430.101 Statutory authority.

Chapter 43 of title 5, United States Code (5 U.S.C. 4301–4305) provides for the establishment of agency performance appraisal systems and for appraisal of employees. This part contains regulations which the Office of Personnel Management has prescribed for non-SES Performance Appraisal Systems and supplements the provisions of 5 U.S.C. 4301–4305.

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 430.201 Purpose.

It is the purpose of this subpart to ensure that performance appraisal systems are used as a tool for executing basic performance management responsibilities by:

(a) Communicating and clarifying agency goals and objectives,

(b) Identifying individual accountability for the accomplishment of organizational goals and objectives,

(c) Evaluating and improving individual and organizational accomplishments, and

(d) Using appraisals as a basis for pay and other personnel actions.

§ 430.202 Coverage.

(a) *Employees and agencies covered by statute.*—(1) 5 U.S.C. 4301(1) lists agencies covered by this part. (2) 5 U.S.C. 4301(2) lists employees covered by statute by this part.

(b) *Statutory Exclusions.* This subpart does not apply to agencies or employees

excluded by 5 U.S.C. 4301 (1) and (2), the United States Postal Service and the Postal Rate Commission.

(c) *Administrative exclusions.* OPM may exclude any position or group of positions in the excepted service under the authority of 5 U.S.C. 4301(2)(G). The following are excluded:

(1) Positions in Schedule C of 5 CFR, Part 213.

(2) Positions filled by Noncareer Executive Assignments under 5 CFR, Part 305.

(3) Positions for which employment is not reasonably expected to exceed 120 days in a consecutive 12-month period.

(d) *Agency requests for exclusions.* Heads of agencies or their designees may request the Director of the Office of Personnel Management to exclude positions in the excepted service. The request must be in writing, explaining why the exclusion would be in the interest of good administration.

§ 430.203 Definitions.

In this part, terms are defined as follows—

(a) "Appraisal system" means a performance appraisal system established by an agency or component of an agency under subchapter I of chapter 43 of title 5, U.S.C. and Subpart B of this part which provides for establishment of performance standards, identification of critical elements, communication of standards and critical elements to employees, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.

(b) "Performance" means an employee's accomplishment of assigned duties and responsibilities as specified in the critical elements of the employee's position.

(c) "Appraisal" means the act or process of reviewing and evaluating the performance of an employee against the described performance standard(s) for the appraisal period in order to arrive at ratings for individual critical elements and a summary rating for overall performance.

(d) "Rating" means the outcome of the appraisal of each critical element and overall performance expressed as one of the following five descriptive levels: "Outstanding", "Exceeds Fully Successful", "Fully Successful", "Minimally Successful", and "Unacceptable".

(e) "Critical element" means a component of a job consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and

which is of such importance that acceptable performance on the element is necessary for acceptable performance in the position.

(f) "Performance standard" means a statement of the expectations or requirements established by management for a critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance.

(g) "Performance Plan" means the aggregation of all of an employee's critical elements and described performance standard(s).

(h) "Appraisal period" means the period of time established by an appraisal system for which an employee's performance will be reviewed and for which a performance rating will be given.

§ 430.204 The performance appraisal process.

(a) As required by 5 U.S.C. 4302(a), each agency shall establish one or more appraisal systems for appraising the work performance of employees during an appraisal period.

(b) Only critical elements may be included in a Performance Plan. An employee must be appraised and rated on each critical element of the employee's position. An employee must also be given a summary rating of overall performance. Agency appraisal systems may not provide for appraisal of subelements or non-critical elements.

(c) Agency appraisal systems shall provide for five rating levels for each critical element and five summary rating levels. The required element and summary rating levels are "Outstanding", "Exceeds Fully Successful", "Fully Successful", "Minimally Successful", and "Unacceptable". The absence of a written standard at a given rating level shall not preclude the assignment of a rating at that level.

(d) Definitions of the five required rating levels follow. Performance standards and agency procedures for deriving summary ratings must be consistent with these definitions. The job expectations and requirements must be described at the "Fully Successful" level. "Fully Successful" is the standard against which performance will be rated. The majority of employees should fall within the "Fully Successful" level.

(1) "Outstanding" means performance that shows exceptional consistency in meeting all factors of "Fully Successful" performance standards in ways that meet goals and achieve outcomes that result in significant contributions to the organization well beyond the

expectations of "Fully Successful" performance. Performance at this level is achieved by only a very small number of employees, and a rating at this level should be accompanied by a recommendation for formal recognition, monetary or nonmonetary.

(2) "Exceeds Fully Successful" means performance that, while not at the "Outstanding" level, is consistently above that required at the "Fully Successful" level. Typically, the number of employees rated at this level will be substantially fewer than those rated at the "Fully Successful" level but greater than those rated "Outstanding". Performance at or above this level constitutes an acceptable level of competence for the purpose of within-grade increases for employees in steps 7 through 9 of each grade.

(3) "Fully Successful" means performance that consistently meets job expectations and requirements. Work products are typically of high quality and quantity and completed on or ahead of schedule; the employee maintains cooperative work relationships. Job expectations and requirements must be described at the "Fully Successful" level for each critical element. The majority of employees will typically be rated at the "Fully Successful" level. Performance at or above this level constitutes an acceptable level of competence for the purpose of within-grade increases for employees in steps 1 through 6 of each grade.

(4) "Minimally Successful" means performance which does not consistently meet the expectations and requirements for the "Fully Successful" level. This may be evidenced by the need for greater supervisory review, discussion, and correction than is necessary at the "Fully Successful" level. When performance falls below "Fully Successful", it may be necessary to take remedial action.

(5) "Unacceptable" means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position. When performance is "Unacceptable", corrective action must be taken.

(e) 5 U.S.C. 4302 (a) and (b) require that each appraisal system shall provide for establishing performance standards based on requirements of employees' positions, communicating the standards of performance and the critical elements of the position at the beginning of each appraisal period, and appraising employees based on a comparison of performance with the standards established for the appraisal period. An agency shall encourage employee

participation in establishing performance standards.

(f) Performance standards and critical elements must be related to the employee's assigned work.

(g) Employees shall generally be given performance ratings on at least an annual basis. Agency appraisal systems shall provide for completion of performance ratings within 60 days prior to the end of a non-merit pay employee's waiting period for a within-grade or step increase. Agency appraisal systems shall establish a minimum appraisal period of not less than 90 calendar days.

(h) Critical elements and performance standards shall be in writing and shall be reviewed and approved by a supervisor or manager at a higher level than the appraising official.

(i) Periodic performance ratings and performance based personnel actions shall be reviewed and approved by a supervisor or manager at a higher level than the appraising official. Performance ratings shall be in writing and shall be provided to the employee. Performance ratings may not be communicated to employees prior to approval by a higher level reviewer.

(j) An employee may not grieve or appeal a performance rating. The assignment of a performance rating is a management right under 5 U.S.C. 7106(a) which reserves to management the right to direct employees and to assign work. Actions taken by management as a result of the rating, if any, may be grievable or appealable. Such grievances and appeals are limited to the issue of whether management acted in an arbitrary or capricious manner or in such a fashion as to constitute harmful procedural error.

(k) Agencies shall provide written critical elements and performance standards to employees at the beginning of a detail or temporary assignment within the same agency when the detail or temporary assignment is expected to last longer than the minimum appraisal period established by the agency. Performance ratings must be prepared for these details and temporary assignments and must be considered in deriving an employee's summary rating for the appraisal period.

(l) When an employee is detailed or temporarily assigned outside of the agency, the agency shall either extend the employee's performance rating of record or the agency shall obtain relevant appraisal information from the agency or organization to which the employee is detailed or temporarily assigned and consider the information when preparing a performance rating at the end of the appraisal period.

(m) Performance appraisals and ratings shall be used:

(1) To provide employees with information on their performance and how it may be improved.

(2) As a basis for decision to grant awards; grant or withhold pay increases, i.e., within-grade increases, step increases, and quality step increases; grant merit pay; reassign; promote; develop; retain in reduction in force; and reduce in grade or remove.

§ 430.205 Training and evaluation.

To assure that the requirements of the law will be effectively implemented, agencies must provide appropriate training and information to supervisors and employees on the appraisal process, and must establish methods and procedures to evaluate periodically the effectiveness of their appraisal system(s) and to improve the system(s).

§ 430.206 OPM review of appraisal systems.

(a) The Office of Personnel Management will review performance appraisal systems to determine if they conform to requirements of law and OPM regulations. The Office of Personnel Management will also review appraisal systems with respect to their contribution to agency effectiveness and efficiency and appropriate use of performance information in personnel decisions.

(b) If the Office of Personnel Management determines that an appraisal system does not meet the requirements of Subchapter I of 5 U.S.C. 43 or of this part, it shall direct the agency to implement an appropriate system or to correct operations under the system. The agency shall take any action so required.

§ 430.207 Performance Management Plans.

(a) Agencies must submit proposed Performance Management Plans to the Office of Personnel Management for review and approval. Performance Management Plans shall include each of the following which is applicable to the agency and any additional information requested by OPM:

(1) Appraisal Systems required under 5 U.S.C. 4302 and 4312. Submissions may either by agency-wide appraisal systems or requirements which the systems of subordinate organizations must meet.

(2) Merit Pay System Plans required by 5 CFR Part 540.

(3) Performance Award Plans required by 5 CFR Part 531.

(4) Plans for granting Within-grade Increases and Plans required by 5 CFR

Part 531 for granting Quality Step Increases.

(5) Plans for determining and distributing the agency awards fund each year under an awards fund computation formula issued by the Office of Personnel Management.

(b) Proposed changes to approved Performance Management Plans which would have an impact on how an agency meets legal or regulatory requirements must be submitted to the Office of Personnel Management for review and approval.

Subpart C—Implementation and Interim Procedures

§ 430.301 Implementation of this part.

(a) Each agency covered by subparts A and B of this part or by 5 CFR Part 540 shall submit Performance Management Plans to the Office of Personnel Management for review within 120 days after [final publication of these regulations].

(b) Agencies will be required to implement the provisions of an approved Performance Management Plan after [180 days after final publication of these regulations].

§ 430.302 Interim procedures.

An agency may utilize Performance Appraisal Systems and Merit Pay Systems which have been approved by the Office of Personnel Management until [180 days after final publication of these regulations].

(4) A new Part 431 is added, to read as follows:

PART 431—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

Subpart A—Statutory Authority

Sec.

431.101 General.

Subpart B—Regulatory Requirements of the Office of Personnel Management

431.201 Purpose.

431.202 Coverage.

431.203 Definitions.

431.204 The performance appraisal process.

431.205 Training and evaluation.

431.206 OPM review of SES appraisal systems.

431.207 Performance Management Plans.

Subpart C—Implementation and Interim Procedures

Sec.

431.301 Implementation of this part.

431.302 Interim procedures.

Authority: 5 U.S.C. 43 Subchapter II.

Subpart A—Statutory Authority**§ 431.101 General.**

Chapter 43 of title 5, United States Code (5 U.S.C. 4311–4315) provides for the establishment of Senior Executive Service performance appraisal systems and appraisals of senior executives (as defined in 5 U.S.C. 3132(a)) performance. This part contains the regulations which the Office of Personnel Management has prescribed for performance appraisal in the Senior Executive Service, and supplements the provisions of 5 U.S.C. 4311–4315.

Subpart B—Regulatory Requirements of the Office of Personnel Management**§ 431.201 Purpose.**

It is the purpose of this subpart to ensure that performance appraisal systems are used as a tool for executing basic performance management responsibilities by:

- (a) communicating and clarifying organizational goals and objectives,
- (b) identifying individual accountability for the accomplishment of agency goals and objectives,
- (c) evaluating and improving individual and organizational accomplishments, and
- (d) using appraisals as a basis for pay and other personnel actions.

§ 431.202 Coverage.

(a) All senior executives covered by subchapter II, of Chapter 31 of title 5, United States Code are covered by this part.

(b) 5 U.S.C. 3132(a)(1) identifies agencies covered by this part.

§ 431.203 In this part, terms are defined as follows—

(a) "Appraisal system" means a performance appraisal system established by an agency or component of an agency under subchapter II of chapter 43 of title 5, and Subpart B of this part which provides for establishment of performance standards, identification of critical elements, communication of standards and critical elements to senior executives, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.

(b) "Performance" means the senior executive's accomplishment of assigned duties and responsibilities as specified in the critical elements of the executive's position.

(c) "Performance appraisal" means the act or process of reviewing and evaluating the performance of an

executive against the described performance standards for the appraisal period in order to arrive at ratings for individual critical elements and a summary rating for overall performance.

(d) "Performance Rating" means the outcome of the appraisal of each critical element and overall performance expressed as one of five descriptive levels: "Outstanding," "Exceeds Fully Successful," "Fully Successful," "Minimally Satisfactory," and the "Unsatisfactory."

(e) "Initial rating" means the rating by the senior executive's immediate supervisor, the rating official.

(f) "Final rating" means the rating assigned by an appointing authority after considering the recommendations of a Performance Review Board.

(g) "Performance requirement" means performance standard.

(h) "Critical element" means a component of job consisting of one or more duties and responsibilities which contributes toward accomplishing organization goals and objectives and which is of such importance that acceptable performance on the element is necessary for acceptable performance in the position.

(i) "Performance standard" means a statement of the expectations or requirements established by management for a critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, cost efficiency, timeliness, and manner of performance.

(j) "Performance Plan" means the aggregation of the senior executive's critical elements and described performance standards.

(k) "Appraisal period" means the period of time established by an appraisal system for which the senior executive's performance will be reviewed and for which a performance rating will be given.

(l) "Appointing authority" means the agency or department head."

§ 431.204 The performance appraisal process.

(a) As required by 5 U.S.C. 4312(A), each agency shall establish one or more appraisal system for appraising the individual and organization work performance of senior executives during an appraisal period.

(b) Only critical elements may be included in a performance plan. A senior executive must be appraised and rated on each critical element of the executive's position. A senior executive must also be given a summary rating or overall performance. Agency appraisal

systems may not provide for appraisal or subelements or non-critical elements.

(c) Agency appraisal systems shall provide for five rating levels for each critical element and five summary rating levels. The required element and summary rating levels are "Outstanding," "Exceeds Fully Successful," "Fully Successful," "Minimally Satisfactory," and "Unsatisfactory." The absence of a written standard at a given rating level shall not preclude the assignment of a rating at that level.

(d) Definitions of the five required rating levels follow. Performance standards and agency procedures for deriving summary ratings must be consistent with these definitions. The job expectations and requirements must be described at the "Fully Successful" level. "Fully Successful" is the standard against which performance will be rated. The majority of executives will typically be rated at the "Fully Successful" level.

(1) "Outstanding" means performance which shows exceptional consistency in meeting all factors of "Fully Successful" standards in ways that meet goals and achieve outcomes that result in significant contributions to the organization well beyond the expectations of "Fully Successful" performance. Performance at this level is achieved by only a very small number of executives, and should include a recommendation for formal recognition, monetary or non-monetary.

(2) "Exceeds Fully Successful" means performance that, while not at the "Outstanding" level, is consistently above that required at the "Fully Successful" level. Typically, the number of executives rated at this level will be substantially fewer than those rated at the "Fully Successful" level but greater than those rated "Outstanding."

(3) "Fully Successful" means performance that consistently meets job expectations and requirements. Work products are typically of high quality and quantity and completed on or ahead of schedule, and the executive maintains cooperative work relationships. Job expectations and requirements must be described at the "Fully Successful" level. The majority of executives will typically be rated at the "Fully Successful" level.

(4) "Minimally Satisfactory" means performance which does not consistently meet job expectations and requirements for the "Fully Successful" level. This may be evidenced by the need for greater supervisory review, discussion and correction than is necessary at the "Fully Successful"

level. When performance falls below "Fully Successful", it may be necessary to take remedial action.

(5) "Unsatisfactory" means performance which fails to meet established performance standards in one or more critical elements of the executive's position. Where performance is "Unsatisfactory", corrective action must be taken.

(e) 5 U.S.C. 4312(b) requires that each appraisal system provide for establishing performance standards based on the requirements of senior executives' positions, communicating the critical elements and performance standards of the position on or before the beginning of each appraisal period, and appraising senior executive based on a comparison of performance with the standards established from the appraisal period. An agency shall establish performance standards in consultation with the senior executive.

(f) Critical elements and performance standards must be related to the senior executive's assigned work and organizational performance requirements.

(g) Senior executives shall be rated on at least an annual basis. Agency appraisal systems shall provide for completion of ratings no earlier than June 30 and no later than November 30 of the same year. Agency appraisal systems shall establish a minimum appraisal period of not less than 90 calendar days.

(h) Agencies shall provide to senior executives a copy of the following documents at the time they are prepared: the initial rating; notification of the right to respond in writing before rating becomes final; and any recommended changes by any higher level executive review. Agencies must also provide a copy of the critical elements and performance standards to each senior executive.

(i) Critical elements and performance standards shall be in writing and shall be reviewed and approved by an executive at a higher level than the appraising official or by a review committee.

(j) Agencies shall provide written critical elements and performance standards to senior executives on or before the beginning of a detail or temporary assignment within the same agency when the detail or temporary assignment is expected to last longer than the minimum appraisal period established by the agency. Performance ratings must be prepared for these detail and temporary assignments and must be considered in deriving a senior executive's summary rating for the appraisal period.

(k) When a senior executive is detailed or temporarily assigned outside the agency, the agency shall obtain relevant appraisal information from the agency or organization to which the executive is detailed or temporarily assigned.

(l) Agency performance appraisal systems must provide an opportunity for senior executives to respond in writing to an initial rating and have the rating reviewed by an employee in a higher executive level than the supervisor before review by the Performance Review Board (PRB).

(1) Agency performance appraisal systems may provide for a mandatory second level review.

(2) A senior executive is entitled to only one higher level review unless the agency provides otherwise.

(3) The official making the higher level review may present the findings of the review and make written recommendations to the PRB.

(4) Agencies shall provide copies of the reviewer's comments and recommendations to the senior executive, the supervisory official and the PRB.

(m) As required by 5 U.S.C. 4314(c), each agency is required to establish one or more PRB's to make recommendations to the appointing authority on the performance of senior executives in the agency.

(1) Each PRB in an agency shall have three or more members appointed by the head of the agency or by another official or group acting on behalf of the head of the agency.

(2) Notice of appointment to the PRB must be published in the Federal Register.

(3) The members of the PRB must be appointed in such a manner as to assure consistency, stability, and objectivity in performance appraisal.

(4) When appraising a career appointee more than one-half of the membership of the PRB must be SES career appointees unless OPM waives this requirement.

(5) Each PRB will review and evaluate the initial rating, the senior executive's written response, if any, and the written comments, if any, on the initial rating by a higher level executive, and will conduct such further review as the PRB finds necessary.

(6) Individual PRB members must not take part in any PRB deliberations or appraisals involving themselves.

(7) The PRB must make a written recommendation concerning the senior executive's summary rating. When the PRB recommendations disagree with the initial rating, the PRB recommendations

must be supported by a written justification.

(n) Agencies are required to retain all documentation on performance appraisal decisions for no less than five years from the date of the appraisal.

(o) Final performance appraisals shall be used to provide a basis for making decisions to:

(1) Remove senior executives from the SES;

(2) Reassign or transfer senior executives within the SES;

(3) Grant performance awards to career executives.

§ 431.205 Training and evaluation.

To assure that the requirements of the law will be effectively implemented, agencies must provide appropriate training and information to supervisors and senior executives on the appraisal process, and must establish methods and procedures to evaluate periodically the effectiveness of their appraisal system(s) and to improve the system(s).

§ 431.206 OPM review of SES appraisal systems.

(a) SES performance appraisal systems must conform to requirements of law and OPM regulations. The Office of Personnel Management will review appraisal systems for conformance with these regulations as well as with respect to their contribution to agency effectiveness and efficiency and appropriate use of performance information in personnel decisions.

(b) Agencies must submit revised SES performance appraisal plans required under 5 U.S.C. 4312 to the Office of Personnel Management for review and approval. Submissions may be either agency-wide appraisal systems or requirements which the systems of subordinate organizations must meet.

(c) Proposed changes to approved SES performance appraisal plans which have an impact on how an agency meets legal or regulatory requirements must be submitted to the Office of Personnel Management for review and approval.

(d) If the Office of Personnel Management determines that an appraisal system does not meet the requirements of Subchapter II of Chapter 43 of title 5, United States Code or of this part, it shall direct the agency to implement an appropriate system or to correct operations under the system. The agency shall take any action so required.

§ 431.207 Performance Management Plans.

(a) Agencies must submit proposed Performance Management Plans to the Office of Personnel Management for

review and approval as required by 5 CFR 403.207.

(b) Proposed changes to approved Performance Management Plans which have an impact on how an agency meets legal or regulatory requirements must be submitted to the Office of Personnel Management for review and approval.

Subpart C—Implementation and Interim Procedures

§ 431.301 Implementation of this part.

Each agency covered by subpart B of this part shall submit Performance Management Plans in compliance with § 430.207 to the Office of Personnel Management for review and approval. Performance Management Plans must include SES appraisal system plans in compliance with § 5 CFR 430.207, submitted to OPM [120 days after final publication of these regulations].

§ 431.302 Interim procedures.

An agency may utilize SES Performance Appraisal Systems which have been approved by the Office of Personnel Management until 180 days after final publication of these regulations.

(5) In Part 451, the heading is revised, Subpart A is removed and reserved, and Subpart B is revised to read as follows:

PART 451—SPECIAL AWARDS

Subpart A—[Reserved]

Subpart B—Regulatory Requirements of the Office of Personnel Management

Sec.

- 451.201 Applicability.
- 451.202 Purpose.
- 451.203 Coverage.
- 451.204 Definitions.
- 451.205 Policy.
- 451.206 Eligibility.
- 451.207 Payment.
- 451.208 Responsibilities of the Office of Personnel Management.
- 451.209 Agency responsibilities.

Authority: 5 U.S.C. 4506 and 5405.

Subpart A—[Reserved]

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 451.201 Applicability.

(a) This subpart contains the regulatory requirements of the Office of Personnel Management for the establishment and conduct of the Special Awards Program for Government employees' suggestions, inventions, and meritorious actions which are not included in or measured by established critical elements of performance standards. These accomplishments and contributions are

beyond or outside the scope of assigned job responsibilities and performance standards.

(b) An award under this part, based on employee accomplishments that are clearly beyond assigned job responsibilities and performance standards, as determined by the agency head, shall be in addition to a performance award granted under 5 CFR Part 531, Subpart F.

(c) Refer to 5 CFR, Part 531, Subpart F, for the regulatory requirements on Performance Awards based on assigned duties and contributions within the scope of the employee's job responsibilities and performance standards.

§ 451.202 Purpose.

(a) The Government Employees' Special Awards Program is designed to improve Government operations and services. Its purpose is to motivate employees to increase productivity and creativity by rewarding those whose accomplishments and adopted ideas benefit the Government and which are clearly beyond or outside assigned job responsibilities and performance standards.

(b) The Office of Personnel Management encourages agencies to make maximum use of their authorities under Chapters 45 and 54 of title 5, United States Code, to establish and administer special awards for one time suggestions, inventions, and meritorious actions that best support and enhance agency and national goals, and meet employee recognition needs.

§ 451.203 Coverage.

(a) This subpart applies to (1) employees as defined by section 2105, title 5, United States Code, and (2) individuals employed by the Government of the District of Columbia.

(b) This subpart applies to agencies as defined in section 4501 of title 5, United States Code.

§ 451.204 Definitions.

(a) "Special award" or "award" means a cash, an honorary, or a non-monetary award.

(b) "Presidential award" means an award granted by the President under section 4504 of title 5, United States Code.

(c) "Tangible benefits" mean benefits of savings which can be measured such as conserving staff, material, time or space, eliminating unnecessary processes or improving existing methods.

(d) "Intangible benefits" mean benefits which cannot be measured such as contributions which improve science,

medicine, natural resources, or services to the public.

§ 451.205 Policy.

(a) A special award under this part shall be:

(1) Monetary, honorary, or non-monetary;

(2) Based on employee accomplishments that are clearly beyond or outside assigned job responsibilities and performance standards; and

(3) Based on the tangible and intangible savings and/or benefits to the Government.

(b) Monetary awards based on tangible benefits shall be computed using the following scales:

(1) Awards of up to \$10,000, based on tangible benefits:

Tangible benefits	Award
Up to \$20,000	5% of savings.
\$20,001 to \$100,000	\$1,000 plus 1.5% of savings over \$20,000.
Over \$100,000	\$2,200 plus 25% of savings over \$100,000 up to maximum award of \$10,000.

(2) Awards over \$10,000 based on tangible benefits:

Savings (in millions)		Award
Continuous for 5 years resulting in first year savings of—	One time	
\$5.	\$15	\$15,000
7.5	20	20,000
10.	25	25,000

(3) Presidential Awards based on tangible benefits:

Savings (in millions)		Award
Continuous for 5 years resulting in first year savings of—	One time	
\$20	\$75	\$10,000, in addition to the \$25,000, for a total of \$35,000

(c) In addition to special awards based on tangible benefits under paragraphs (b) (1), (2) and (3) of this section, special awards may be granted for contributions having intangible benefits to the Government. OPM shall provide guidance to agencies on how to compute all monetary awards based on intangible benefits.

(d) OPM shall provide guidance to agencies regarding criteria for granting all honorary and non-monetary awards based on tangible and intangible benefits, including honorary Presidential awards.

§ 451.206 Eligibility.

(a) A special award may be granted when the suggestion, invention, meritorious action or other personal effort:

- (1) Is clearly beyond or outside assigned job responsibilities and performance standards;
 - (2) Benefits the Government as described in 5 U.S.C. 4503 and 4504;
 - (3) Was made while the contributor was a Government employee;
 - (4) Has been described in writing, and
 - (5) Has been approved by the benefiting organization at a management level higher than the individual who
 - (i) Made the suggestion or invention;
 - (ii) Recommended use of the suggestion or invention; or
 - (iii) Recommended the award.
- (b) These awards shall not be mandatory.

§ 451.207 Payment.

(a) Awards paid under this part do not increase the rate of basic pay, and are subject to the withholding of income taxes.

(b) When a special award is approved for an employee of another agency, arrangements shall be made to transfer funds to the employing agency. If the administrative costs of transferring funds would exceed the amount of the award, the employing agency shall absorb the award costs.

§ 451.208 Responsibilities of the Office of Personnel Management.

(a) OPM shall review, and following verification of savings and relationship of contributions to job requirements, approve or disapprove recommendations for all awards in excess of \$10,000 on a case-by-case basis. OPM shall limit approval of awards to denominations of \$15,000, \$20,000 and \$25,000.

(b) The Director, OPM, shall advise the President on monetary and honorary Presidential awards for Government employees. A monetary Presidential award granted in addition to an award made under 5 U.S.C. 4503 shall be for \$10,000.

§ 451.209 Agency responsibilities.

(a) The head of each agency shall establish an agency Special Awards Program that seeks to gain maximum benefits for the Government through improved employee motivation and productivity by providing for:

- (1) The integrity of the program by reviewing agency program results to assure that special awards are granted equitably, on the basis of the tangible and intangible savings to the

Government; that action is taken to grant special awards in a timely manner; and that information is made available concerning persons who have received special awards and the reason(s) why each award is granted; and

(2) The greatest motivational impact by allocating adequate resources to assure prompt action on special award recommendations, and effective promotion and publicity activities.

(b) Each agency head may delegate the responsibilities in paragraph 451.209(a) of this part as deemed appropriate for his or her organization.

(c) The head of each agency shall transmit to OPM:

- (1) Award recommendations over \$10,000;
 - (2) All recommendations for Presidential awards;
 - (3) An annual report on program activities for the past fiscal year.
- (d) Each agency shall establish and operate an up-to-date program which shall provide for:

- (1) Delegation of authority and responsibility for approval of special awards to the lowest level consistent with sound management practices;
- (2) Special award recommendations involving the minimum amount of paperwork and processing which shows that criteria are met, expenditure of appropriated funds for the award is justified, and that a record of an award approved under this part is made in the Employee's Performance File, in accordance with 5 CFR Part 293.
- (3) Central administration and review of the agency-wide program, including systematic evaluation, planning, and feedback reports to employees;
- (4) Time limits for processing special award recommendations and granting of special awards; and
- (5) Consideration of accomplishments and adopted ideas for wider application both within the agency and Governmentwide, and prompt referral when appropriate.

(6) The heading for Part 531 and the authority citation for Part 531, Subpart D, are revised to read as follows:

PART 531—PERFORMANCE BASED INCENTIVE SYSTEM FOR THE GENERAL SCHEDULE

Subpart D—Within-Grade Increases

Authority: 5 U.S.C. 5301, 5335, and 5338 and E.O. 11721 as amended, section 402, unless otherwise noted.

(7) § 531.401 is revised to read as follows:

§ 531.401 Principal authorities.

The following are the principal authorities for the regulations in this subpart:

(a) 5 U.S.C. 2301(b)(3) provides in part that "... appropriate incentives and recognition should be provided for excellence in performance."

(b) 5 U.S.C. 5301(a)(2) provides that "pay distinctions be maintained in keeping with work and performance distinctions."

(c) Section 402 of E.O. 11721, as amended, provides that "The Civil Service Commission [Office of Personnel Management] shall issue such regulations and standards as may be necessary to ensure that only those employees whose work is of an acceptable level of competence receive periodic step-increases under the provisions of section 5335 of title 5, United States Code."

(8) Section 531.403 is amended by revising the term "acceptable level of competence", to read as follows:

§ 531.403 Definitions.

In this subpart:

"Acceptable level of competence" means a level at which the performance by an employee of the duties and responsibilities of his or her assigned position warrants advancement of the employee's rate of basic pay to the next higher step of the grade of his or her position, subject to the requirements of § 531.404 of this subpart.

(9) Section 531.404 is revised to read as follows:

§ 531.404 Earning within-grade increase.

An employee paid at less than step 10 of the grade of his or her position shall only earn advancement in pay to the next higher step of that grade upon meeting the three requirements established by law:

(a) To earn a within-grade increase, the employee's performance of assigned work must be at an acceptable level of competence, as defined in this subpart by authority of Section 402 of E.P. 11721, as amended.

(1) Acceptable level of competence for an employee in steps 1 through 6 of the grade of his or her position means a level of performance of assigned work of at least "Fully Successful", as defined in Part 430 of this chapter, for each critical element. In addition, the employee's summary performance rating must be at least "Fully Successful".

(2) Acceptable level of competence for an employee in steps 7 through 9 of the grade of his or her position means a level of performance of assigned work of at least "Fully Successful", as defined in Part 430 of this chapter, for each critical element and, in addition, the employee's

summary performance rating must be at least "Exceeds Fully Successful".

(b) The employee must have completed the required waiting period for advancement to the next higher step of the grade of his or her position; and

(c) The employee must not have received an equivalent increase during the waiting period.

(10) In § 531.409, paragraphs (b), (c) and (d) are revised to read as follows:

§ 531.409 Acceptable level of competence determinations.

(b) Basis for determination. An acceptable level of competence determination shall be based on a current performance rating made under Part 430 of this chapter, or for those agencies not covered by Chapter 43 of title 5, United States Code, minimal performance appraisal requirements issued by OPM. If an employee has been reduced in grade due to "Unacceptable" performance and has served in one position at the lower grade for at least the minimum appraisal period established by the agency, a performance rating at the lower grade shall be used as the basis for an acceptable level of competence determination.

(c) Delay in determination. An acceptable level of competence determination must be delayed when:

(1) An employee has not had the minimum period of time established by the agency to demonstrate acceptable performance because he or she has not been informed of the specific requirements for performance at an acceptable level of competence in his or her current position; and

(2) The employee has not otherwise been appraised within 90 days before the end of the waiting period.

When an acceptable level of competence determination has been delayed under this subpart, the employee shall be informed that his or her determination is postponed and of the specific requirements for performance at an acceptable level of competence. The determination shall be based on a performance rating completed at the end of the minimum appraisal period established by the agency performance appraisal plan.

(d) Waiver of requirement for determination. An acceptable level of competence determination shall be waived and a within-grade increase granted when an employee has not served in any position for the minimum appraisal period under an applicable agency performance appraisal system during the final 52 calendar weeks of the

waiting period for one or more of the following reasons:

(1) Absences that are creditable service in the computation of a waiting period or periods under § 531.406 of this subpart;

(2) Because of paid leave;

(3) Because the employee received service credit under the back pay provisions of subpart H of Part 550 of this chapter;

(4) Because of details to another agency or employer;

(5) Because of long term training; or

(6) Because the employee has recently transferred from another agency.

In such a situation, there shall be a presumption that the employee would have performed at an acceptable level of competence had the employee performed the duties of his or her position of record for the minimum appraisal period under the applicable agency performance appraisal system.

(11) Section 531.411 is revised to read as follows:

§ 531.411 Continuing evaluation after withholding a within-grade increase.

After a within-grade increase has been withheld, an agency may grant the within-grade increase at any time after it determines that the employee has demonstrated sustained performance at an acceptable level of competence. However, the agency shall determine whether the employee's performance is at an unacceptable level of competence after no more than 52 calendar weeks following the original eligibility date for the within-grade increase.

(12) In Subpart E, §§ 531.503 and 531.504 are revised to read as follows:

Subpart E—Quality Step Increases

§ 531.503 Purpose of quality step increases.

The purpose of quality step increases is to recognize outstanding performance by granting faster than normal step increases.

§ 531.504 Level of performance required for quality step increase.

(a) A quality step increase may only be granted to an employee who receives a summary performance rating of "Outstanding", as defined in Part 430 of this chapter.

(b) An agency shall award a quality step increase to an employee in steps 1 through 3 of each General Schedule grade whose current summary performance rating is "Outstanding", as defined in Part 430 of this chapter.

(c) An agency may award a quality step increase to an employee in steps 4

through 9 of the General Schedule whose current summary performance rating is "outstanding", as defined in Part 403 of this chapter. An agency may not make such awards mandatory.

(13) Section 531.505 is revoked and removed. § 531.506 through § 531.508 are redesignated as § 531.505 through § 531.507, and revised to read as follows:

§ 531.505 Restrictions on granting quality step increases.

As provided by 5 U.S.C. 5336, a quality step increase may not be granted to an employee who has received a quality step increase within the preceding 52 consecutive calendar weeks.

§ 531.506 Effective date of quality step increase.

(a) A quality step increase for an employee in steps one through three of each General Schedule grade with a summary performance rating of "Outstanding", as defined in Part 430 of this chapter, shall be effective on the same day as the first within-grade increase granted to the employee following the performance appraisal of "Outstanding".

(b) A quality step increase awarded to an employee in steps four through nine of each General Schedule grade shall be effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5, United States Code.

§ 531.507 Agency plans for granting quality step increases.

Each agency shall include a plan for granting quality step increases in the agency's Performance Management Plan required under Part 430 of this chapter. The plan shall:

(a) Be as simple as practicable;

(b) Provide for delegation of authority to grant quality step increases to the lowest practicable level of management;

(c) Be reviewed and approved in accordance with paragraph 430.204(k) of this chapter;

(d) Include procedures by which the agency can distribute quality step increases authorized by the annual OPM funding tables; and

(e) Provide for informing employees, at least annually, of the number of quality step increases granted in the agency by grade level.

§ 531.508 [Redesignated from § 531.509]

(14) Section 531.509 is redesignated § 531.508.

(15) In part 531, a new Subpart F is added to read as follows:

Subpart F—Performance Awards

Sec.

- 531.601 Applicability.
- 531.602 Purpose of performance awards.
- 531.603 Coverage.
- 531.604 Definitions.
- 531.605 Policy.
- 531.606 Eligibility.
- 531.607 Payment.
- 531.608 Responsibilities of the Office of Personnel Management.
- 531.609 Agency responsibilities.

Authority: 5 U.S.C. 4302(a)(3), 4506, and 5405.

Subpart F—Performance Awards**§ 531.601 Applicability.**

(a) This subpart contains the Office of Personnel Management's regulatory requirements for establishment and conduct of the performance awards component of the Performance Management System, under the authority of title 5, United States Code, Chapters 43, 45, and 54.

(b) An award under this subpart shall be supported by the employee's performance rating and based on accomplishments and contributions which are within the scope of the employee's assigned job responsibilities and performance standards.

(c) Refer to 5 CFR Part 451 for the regulatory requirements for granting awards to employees for accomplishments not included in or measured by critical elements of performance standards because they are beyond the scope of job responsibilities and performance standards.

§ 531.602 Purpose of performance awards.

(a) The purpose of performance awards is to recognize, reward, and motivate employees who attain high levels of performance.

(b) The Office of Personnel Management encourages agencies to make maximum use of their authorities under Chapters 43, 45, and 54 of title 5, United States Code, to establish and administer performance awards that best support and enhance agency and national goals and meet employee recognition needs.

§ 531.603 Coverage.

(a) This subpart applies to (1) employees as defined by Section 2105, title 5, United States Code, except for those in the Senior Executive Service, and (2) individuals employed by the Government of the District of Columbia.

(b) This subpart applies to agencies as defined in section 4501 of title 5, United States Code.

§ 531.604 Definitions.

(a) "Performance award" or "award" means a cash, honorary, or non-monetary award.

(b) "Presidential award" means an award granted by the President under Section 4504 of title 5, United States Code.

(c) "Plan" means a written statement approved by the head of the agency implementing law and regulation for the performance awards component of the overall Performance Management System Plan as described in 5 CFR, Section 430.207.

§ 531.605 Policy

(a) A performance award under this subpart shall be:

(1) Monetary, honorary, or non-monetary;

(2) Based on employee accomplishments and contributions which are within the scope of an employee's assigned job responsibilities and performance standards; and

(3) Based on a percentage of the employee's salary, up to a maximum of 15 percent.

§ 531.606 Eligibility.

(a) A performance award may be granted when superior accomplishments or other contributions:

(1) Are within the scope of the employee's assigned job responsibilities and performance standards;

(2) Benefit the Government as described in 5 U.S.C. 4503 and 4504;

(3) Were made while the contributor was a Government employee;

(4) Have been supported by a performance rating of Fully Successful or above; and

(5) Have been approved at a management level higher than the official who recommended the performance awards;

(b) These awards shall not be mandatory.

§ 531.607 Payment.

Awards paid under this Subpart do not increase the rate of basic pay and are subject to the withholding of income taxes.

§ 531.608 Responsibilities of the Office of Personnel Management.

(a) The Director, Office of Personnel Management, shall advise the President on Presidential awards for Government employees, and issue instructions to agencies on how to nominate employees for Presidential awards.

(b) OPM shall provide a performance awards fund computation table to agencies which shall be used to determine the appropriate amount of

funds for performance awards at the agency level. Funds for specific agency productivity programs are determined by each agency head and shall not be determined by the use of this table.

(c) OPM shall provide guidance to agencies regarding honorary and non-monetary awards, including honorary Presidential awards.

§ 531.609 Agency responsibilities.

(a) The head of each agency shall establish a performance awards component of the Performance Management System that seeks to gain maximum benefits for the Government through improved employee motivation by providing for:

(1) The integrity of the Performance Management System by reviewing agency results to assure that awards are granted on the basis of merit; that performance awards are used to recognize, reward, and motivate employees; that action is taken to grant awards in a timely manner; and that information is made available concerning persons who have received performance awards and the reason(s) why each award is granted; and

(2) The greatest motivational impact by allocating an adequate budget, staffing and support services to assure prompt action on all employee performance award recommendations and effective promotion and publicity activities.

(b) Each agency head may delegate the responsibilities in paragraph 531.609(a) of this subpart, as deemed appropriate for his or her organization.

(c) The head of each agency shall transmit to OPM:

(1) Award recommendations over \$10,000;

(2) All recommendations for Presidential awards;

(3) A Performance Management Plan which includes a performance awards component, and proposed plan revisions for review and approval; and

(4) An annual report on performance awards activities for the past fiscal year.

(d) The performance awards component of the Performance Management System Plan to be submitted to OPM shall include the following provisions:

(1) Delegation of authority and responsibility for approval of cash, honorary and non-monetary performance awards to the lowest level consistent with sound management practices;

(2) Performance award recommendations to involve the minimum amount of paperwork and processing which shows that criteria are

met, expenditure of appropriate funds for the award is justified, and that a record of an award approved under this subpart is made in the Employee's Performance File, in accordance with 5 CFR Part 293.

(3) Use of the agency's performance appraisal rating as the basis for granting cash, honorary, and non-monetary performance awards based on superior accomplishments within the scope of the employee's assigned job responsibilities and performance standards. Agency productivity programs, which are separate from performance awards, will provide for the granting of separate productivity awards.

(4) Linkage of performance awards to milestones in the performance appraisal cycle which may include but are not limited to mid-term progress reviews and annual performance ratings; and

(5) Consideration of special achievements and other contributions for wider application both within the agency and Governmentwide, and prompt referral when appropriate.

(16) In Part 532, new Subpart H is added, to read as follows:

PART 532—PREVAILING RATE SYSTEMS

Subpart H—Performance and Special Awards

§ 532.801 General.

(a) Performance awards for prevailing rate employees are covered under the provisions of subpart F of Part 531 of this chapter except for the provisions of § 531.608(b) of this part.

(b) Awards for employee accomplishments beyond normal job responsibilities and performance standards are covered under Part 451 of this chapter.

(17) Part 540 is revised to read as follows:

PART 540—MERIT PAY SYSTEMS

Sec.

540.101 General.

540.102 Definitions.

540.103 Ranges of basic pay and employee coverage.

540.104 Determination and allocation of merit pay funds.

540.105 Merit pay performance appraisals.

540.106 Merit pay determinations.

540.107 Merit pay increases and salary levels.

540.108 Special provisions for merit pay increases.

540.109 Cash award program.

540.110 Agency plans for Merit Pay System.

540.111 Reports.

Authority: 5 U.S.C. Chapters 43 and 54.

§ 540.101 General.

Chapter 54 of title 5, United States Code (5 U.S.C. 5401-5405), provides for a Merit Pay System to recognize and reward quality performance by supervisors and management officials (as defined in 5 U.S.C. 7103(a)(10)-(a)(11) in positions classified in GS-13, 14, or 15. This part contains the regulations which the Office of Personnel Management has prescribed for the Merit Pay System, and supplements the provisions of 5 U.S.C. 4302, 4304, and 5401-5405.

§ 540.102 Definitions.

In this part:

"Agency" has the meaning given it in 5 U.S.C. 5102.

"Employee" means a supervisor or management official to whom chapter 54 of title 5 U.S.C. applies.

"Management official" has the meaning given that term in 5 U.S.C. 7103(a)(11); i.e., * * * an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.

"Merit pay determination" is the decision as to the amount of the merit pay increase (including a zero amount).

"Merit pay fund" means the amount of agency money to be allocated to merit pay increases, as determined through application of appropriate Merit Pay Fund Computation Tables.

"Merit pay increase" means the increase in basic pay for a merit pay employee in excess of that granted automatically under 5 U.S.C. 5402 (c)(1) or (c)(3).

"Merit pay pool" means that portion of an agency identified by agency management as having an optimum number of merit pay positions to facilitate internal management of its merit pay plans and to which funds are allocated for distribution as merit increases to covered employees.

"Supervisor" has the meaning given that term in 5 U.S.C. 7103(a)(10); i.e., * * * an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a

preponderance of their employment time to exercising such authority.

§ 540.103 Ranges of basic pay and employee coverage.

(a) Under 5 U.S.C. 5402(a), the Office of Personnel Management is required to establish a Merit Pay System which provides a range of basic pay for each grade of the Merit Pay System. The Merit Pay System shall consist of three grades, as follows:

(1) GM-13, which shall consist of supervisors and management officials who are in positions classified in grade GS-13;

(1) GM-14, which shall consist of supervisors and management officials who are in positions classified in grade GS-14; and

(1) GM-15, which shall consist of supervisors and management officials who are in positions classified in grade GS-15.

(b) The range of annual rates of basic pay for each grade of the Merit Pay System shall be the same as the range of annual rates of basic pay for the corresponding grade of the General Schedule. Higher ranges of rates of basic pay authorized under 5 U.S.C. 5303 shall be applicable under this part to any position covered by such authorization.

(c) In accordance with the definitions in 5 U.S.C. 7103 (a)(10) and (a)(11), the head of each agency shall identify employees who are supervisors or managers for purposes of coverage under the Merit Pay System.

§ 540.104 Determination and allocation of merit pay funds.

(a) Under 5 U.S.C. 5402(b)(4), the Office of Personnel Management must determine the funds available for merit pay purposes. Each agency covered by the Merit Pay System shall submit such information as OPM may require for this purpose.

(b) The Office of Personnel Management shall issue annual Merit Pay Fund Computation Tables consistent with the annual increase made to the General Schedule at these grade levels and shall provide instructions for their use. Each agency covered by the Merit Pay System shall use these tables to determine the size of the merit pay fund available to the agency.

(c) Each agency covered by the Merit Pay System shall have one or more merit pay pools. If there is more than one pool, agencies may determine the funds available to each pool by the same method that is used to compute the merit pay fund, or they may make adjustments to that method to recognize

organizational accomplishment or unusual distributions of performance within a pool, or to satisfy the requirements of paragraph (d)(2) of this section. If other than the computation table amount is to be allocated, the method must be approved by OPM for inclusion in the agency's merit pay plan and must be fully documented.

(d) Each agency covered by the Merit Pay System is required to establish procedures to ensure—

(1) That the sum of merit pay increases awarded each year under § 540.107 of this part to Merit Pay System employees in the agency is no less than 95 percent and no more than 105 percent of the agency's merit pay fund (unless the Office of Personnel Management has granted prior approval for a lesser or greater obligation); and

(2) That no portion of the contribution to the merit pay fund made for employees to whom no immediate merit pay increase may be paid, because of the statutory pay ceiling imposed by 5 U.S.C. 5308 or by appropriations limitations on pay, is used to pay such increases for employees not subject to the statutory pay ceilings.

§ 540.105 Merit pay performance appraisals.

(a) Except as provided in paragraph (c) of this section each merit pay determination shall be based on a current appraisal of performance which is to be made under a performance appraisal system that has been approved by the Office of Personnel Management under 5 U.S.C. 4304(b)(1).

(b) The performance appraisal period on which the merit pay determination is based should be as close to the merit pay determination the agency deems practicable, but, in no event, will end earlier than June 30 nor later than November 30 of the same year.

(c) Agencies and employees subject to the Merit Pay System, but not covered by Chapter 43 of title 5, U.S.C., shall meet minimal performance appraisal requirements issued by the Office of Personnel Management.

§ 540.106 Merit pay determinations.

(a) Each agency shall establish a procedure for determining in a fair and objective manner the amount of merit pay increase that shall be granted each Merit Pay System employee. The determination is to be made for each employee covered by the System on the closest date to the effective date for merit pay increases that is determined by the agency to be administratively feasible and is to be based on a current performance appraisal.

(b) Each merit pay determination shall take into consideration, in addition to the employee's performance, the period of time since the employee's last increase in rate of basic pay, and the amount of the last increase in rate of basic pay.

(c) If the agency determines it is appropriate to do so, a merit pay determination may also take into consideration the accomplishments of the employee's organization.

(d) Each agency shall establish procedures to manage the performance appraisal process and merit pay determinations for employees covered by the Merit Pay System so as to obtain equitable and appropriately sized merit pay increases.

(e) Agency procedures for making merit pay determinations must include a requirement for an approval of each merit pay determination by an official of the agency who is at a higher level than the official who made the merit pay determination (unless there is no official at a higher level in the agency), and also by the official with responsibility for managing the merit pay pool, if different.

(f) The reasons for each merit pay determination are to be documented and shall be made available to the affected employee at his or her request.

(g) The requirement that the merit pay determination be based on performance shall be waived when an employee's performance cannot be appraised for the minimum period of time established by the agency for coverage under its performance appraisal system. When the merit pay determination is waived, pay is to be set in accordance with § 540.108 of this part.

§ 540.107 Merit pay increases and salary levels.

(a) Merit pay increases under 5 U.S.C. 5402(b)(1) are to be made effective on the same day as the automatic pay adjustments under 5 U.S.C. 5402(c)(1) and (c)(3). In the event that the amount of the merit increases cannot be determined in a timely manner, the increases shall be made retroactive to the effective date of the pay adjustments. In no event shall the retroactive payment be made later than December 31 of the calendar year during which such pay adjustment takes effect.

(b) In accordance with the requirements of 5 U.S.C. 5402(a)—

(1) Each Merit Pay System employee's rate of basic pay must be increased, effective on the same day a pay adjustment under 5 U.S.C. 5402(c)(1) becomes effective, by an amount necessary to raise the employee's rate of basic pay to the new minimum rate for the employee's grade; and

(2) No Merit Pay System employee's rate of basic pay may be increased by an amount that would cause that rate of basic pay to exceed the maximum rate for the employee's grade, except as provided in 5 U.S.C. 5334(b) and 5363 in connection with retained pay.

(c) Merit pay increases must be reduced by the amount of any adjustment required under 5 U.S.C. 5402(c)(3) to raise an employee's pay to a new range minimum amount, up to and including the full amount of the merit increase granted under 5 U.S.C. 5402(b)(1).

(d) Agencies must establish procedures to prevent employees in the same merit pay pool and grade level with identical performance ratings from experiencing a reversal in their relative rates of basic pay due solely to the construction of the merit pay allocation model.

§ 540.108 Special provisions for merit pay increases.

(a) An employee for whom the requirement for a performance-based merit pay determination is waived under § 540.106(g) of this part shall be paid the sum of—

(1) The employee's rate of basic pay immediately before the merit pay increase; and

(2) The automatic adjustments required by 5 U.S.C. 5402(c)(1) and (c)(3) at the time of the merit pay increase; and, except as provided in paragraph (c) of this section,

(3)(i) The average increase received, or, if necessary, a constructed average increase which would have been received under 5 U.S.C. 5402(b)(1) by comparably situated employees; or

(ii) An increase identified with a predetermined performance level designator for comparably situated employees; or

(iii) The contribution to the merit pay fund in behalf of the employee which is authorized under 5 U.S.C. 5402(b)(4)(B) representing the portion of the annual GS pay increase which the employee was not granted automatically; or

(iv) The amount provided by the appropriate factor of the Merit Pay Fund Computation Table (to include the quality step increase equivalent or not, as determined by the agency).

(b) When an employee is restored or reemployed after an official absence which encompassed the time of one or more pay adjustments provided under 5 U.S.C. 5402 the employee's rate of basic pay shall be set at the sum of—

(1) The employee's rate of basic pay immediately before the interruption of

his or her employment with the agency; and

(2) The automatic adjustments that would have been required by 5 U.S.C. 5402 (c)(1) and (c)(3) if the employee's service had not been interrupted; and, except as provided in paragraph (c) of this section;

(3)(i) The average increases received, or, if necessary, constructed average increases which would have been received under 5 U.S.C. 5402(b)(1) by comparably situated employees; or

(ii) Increases identified with a predetermined performance level designator for comparably situated employees; or

(iii) The contributions to the merit pay fund in behalf of the employee which is authorized under 5 U.S.C. 5402(b)(4)(B) representing the portion of the annual GS pay increase which the employee was not granted automatically; or

(iv) the amounts provided by the appropriate factor of the Merit Pay Fund Computation Table (to include the quality step increase equivalent or not, as determined by the agency).

(c)(1) When the requirement for a performance-based merit pay determination is waived or when the employee's pay is being set because of—

(i) Service in the armed forces or non-Government service as referenced in 5 U.S.C. 5402(d), or

(ii) Because of other service for which an employee's advancement through the pay range is preserved by statute, or

(iii) Because one or more merit pay increases occurred during a period for which the employee received credit under the back pay provisions of 5 U.S.C. 5596 and Subpart H of Part 550 of this chapter, the employee's pay shall be set at the sum of—

(2)(i) The employee's rate of basic pay immediately before the merit pay increase or before interruption of his or her duty status, as appropriate; and

(ii) the automatic adjustments that are required or that would have been required by 5 U.S.C. 5402 (c)(1) and (c)(3) if the employee's duty status has not been interrupted; and

(iii) The amounts provided by the appropriate factors of the Merit Pay Fund Computation Tables for the employee for each pertinent year.

(d) Increases granted under paragraphs (a)(3) (i) through (iii) and (b)(3) (i) through (iii) of this section are to be reduced as described in § 540.107(c) of this part.

§ 540.109 Cash award program.

(a) 5 U.S.C. 5403 authorizes a cash award program as part of the Merit Pay System. Each agency covered by the Merit Pay System shall establish a cash award program for its Merit Pay System employees in accordance with the provisions of 5 U.S.C. 5403 and Subpart F of Part 531 of this chapter.

(b) Cash awards that are not related to the Merit Pay System employee's performance in his or her position are to be administered in accordance with the provisions of Part 451 of this chapter and the agency's special award program established pursuant to Part 451.

§ 540.110 Agency plans for Merit Pay System.

(a) Each agency with employees who are subject to the Merit Pay System shall establish a plan for administering the Merit Pay System within that agency. Each agency's plan shall be consistent with the provisions of 5 U.S.C. 5401-5403 and this part, and shall include, in addition to provisions to carry out requirements of this part, provisions for—

(1) Communication to the agency's Merit Pay System employees of the purpose of the Merit Pay System and how it works; and

(2) Training in the operation of the Merit Pay System for employees who are subject to that System and for employees who are responsible for its operation.

(b) Agency pay-out models will provide for percentage merit pay increases for employees rated Fully Successful or higher which vary inversely with the employees' position in the pay range.

(c) No employee who is rated Fully Successful or higher shall receive a total increase to base pay under 5 U.S.C. 5402(b)(1), (c)(1), and (c)(3) which is less than the percentage increase authorized under 5 U.S.C. 5305 for General Schedule pay system employees.

(d) No employee who is rated Fully Successful or lower will be granted a merit pay increase which would result in

a rate of base pay higher than the equivalent of the step 7 rate of the corresponding GS grade.

(e) Employees who are rated Outstanding will receive the minimum differential or amount of pay increase specified in the OPM approved performance pay plan.

(f) Employees who are rated Exceeds Fully Successful will be granted an appropriate amount greater than Fully Successful employees and less than Outstanding employees, as approved by the Office of Personnel Management.

(g)(1) Each agency covered by subparts A and B of Part 430 or by 5 CFR Part 540 shall submit Performance Management Plans, including a Merit Pay System Plan, to the Office of Personnel Management for review within 120 days after [final publication of these regulations].

(2) Agencies will be required to implement the provisions of an approved Performance Management Plan after [180 days after final publication of these regulations].

(3) An agency may utilize Performance Appraisal Systems and Merit Pay Systems which have been approved by the Office of Personnel Management until [180 days after final publication of these regulations].

(4) Changes to already approved merit pay plans, except as provided in paragraph (h) of this section must be submitted to OPM at least 60 days before they are scheduled to be effective.

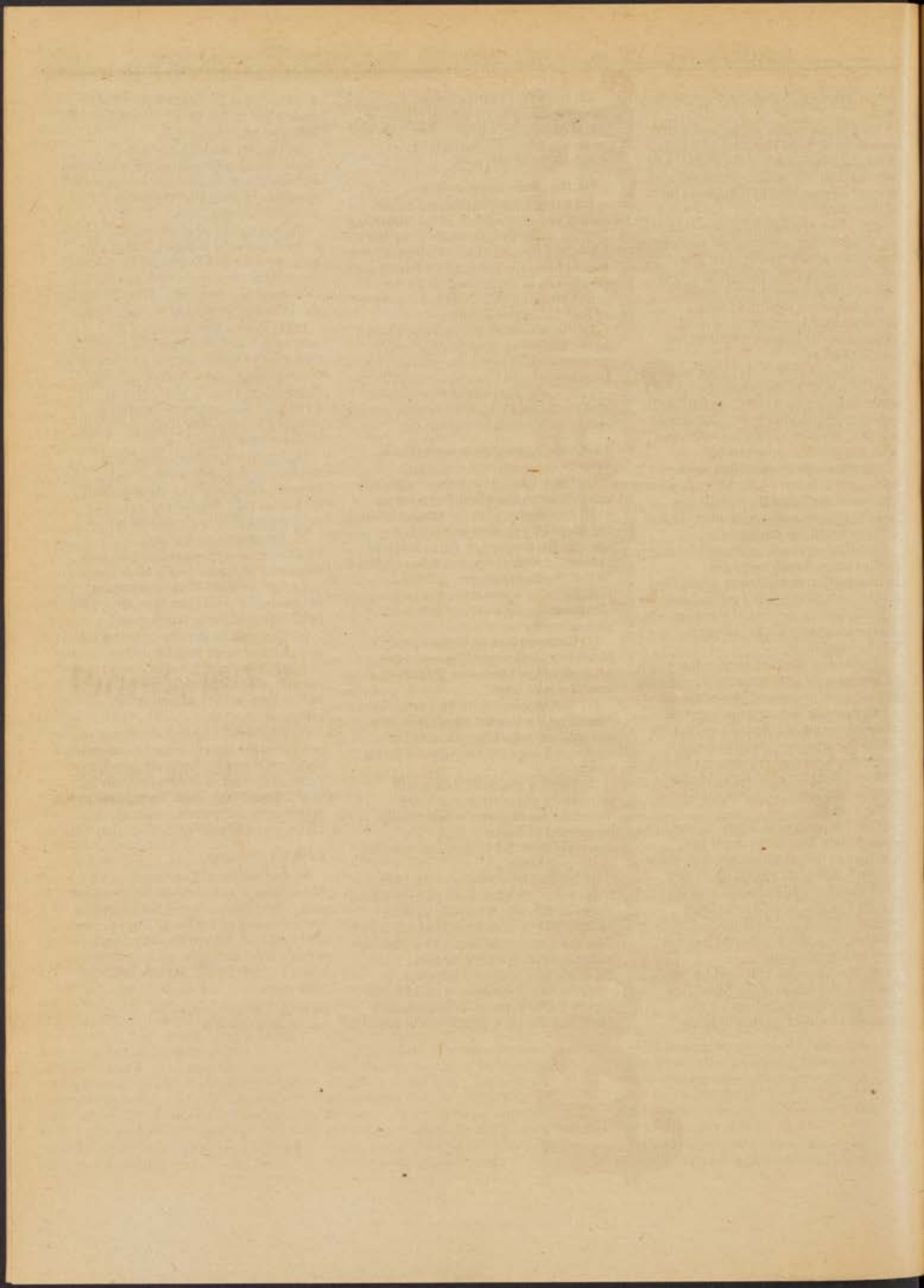
(h) Changes to agency merit pay plans prompted by unanticipated Government-wide merit pay funding levels or other emergency events shall be submitted to the Office of Personnel Management for approval in accordance with special instructions issued by OPM at that time.

§ 540.111 Reports.

So that Office of Personnel Management can provide the Congress and others with information regarding the operation of the Merit Pay System and the Cash Award Program, each agency shall maintain such records and submit to OPM such reports as OPM may require.

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Part IV

Office of Personnel Management

Reduction in Force (RIF) and Advance
Comments on Proposed RIF Regulations;
Proposed Rules

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction in Force

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing changes in the reduction-in-force (RIF) regulations to improve the operation of the RIF system and give greater recognition to performance as a retention factor.

COMMENT DATE: Written comments will be considered if received no later than April 29, 1983.

FOR FURTHER INFORMATION CONTACT: Morton I. Horvitz, (202) 632-6817.

SUPPLEMENTARY INFORMATION:

Background

Recent agency experience with RIF has raised concerns over RIF procedures and their results. These concerns have been voiced by Congress, agency management, employees, unions, veterans' organizations, and other interested groups. On April 23, 1982, OPM published an advance notice of proposed rulemaking in the *Federal Register* (47 FR 17528), inviting all interested parties to make recommendations for changes in the RIF regulations and Federal Personnel Manual instructions. We received approximately 60 written responses from individuals, agencies, unions, and other organizations. In addition, OPM surveyed selected agencies on their experience in conducting RIF's. Independent of the surveys, OPM conducted agency evaluations nationwide to determine the extent to which agencies were running RIF's in compliance with requirements and to assess the impact of RIF on employees and agency programs.

Information gained from these sources was used to develop these proposals. Our objectives in proposing these revisions were to: (1) Give more weight to performance in the RIF process; (2) minimize agency disruption; (3) limit negative effects on employees; and (4) preserve for veterans their preference in determining retention standing as is currently allowed in the RIF process.

Although OPM has already solicited comments, it earnestly solicits additional suggestions and opinions on its proposals, both from the public and affected parties. In the interest of open discussion, OPM also solicits comments upon two proposals which have been raised as alternative means to give more

weight to performance than those provided under present RIF procedures.

The first additional proposal would keep seniority in its present order of retention, but give larger seniority credit for levels of performance above "fully successful." The second would allow first level supervisors, with second level review, to "red circle" a given percentage of "outstanding" performers to provide enough additional service credit to be placed at the top of their retention subgroup, and then use the present order of retention with seniority before performance.

OPM will seriously review all comments. It is interested in achieving reasonable, as well as efficient, reduction in force procedures. The proposed regulations represent OPM's best professional judgement regarding how retention can meet the requirements of the law (5 U.S.C. 2301(b)(6) in merit principle #6, that "employees should be retained on the basis of the adequacy of their performance," and other portions of title 5, United States Code, and related statutes. Yet, OPM solicits from the public alternative means to meet this legal requirement.

In addition to these proposals, we plan at a later date to recommend further refinements to current regulatory procedures and to make conforming changes to instructions in the Federal Personnel Manual. For example, we would revise section 2-2 of FPM chapter 351 to eliminate references concerning competitive area which may be ambiguous or inconsistent with the proposed revised definition and we would also revise section 2-10 to clarify creditability of performance.

Explanation of Proposed Regulations

1. *Competitive Area.* The proposed change to § 351.402 would drop the concepts of "single administrative authority" and "primary subdivision" to eliminate problems in interpreting these terms and to prescribe more practical criteria for agencies to use in establishing minimum competitive areas. An agency could establish competitive areas larger than the defined minimum.

2. *Competitive Level.* Section 351.403 would be revised to clarify agency authority to set competitive levels, including authority to prescribe additional factors to minimize interruption of the work.

3. *Retention Standing.* The tenure groups and veteran preference subgroups are retained. Greater emphasis would be given to performance by further categorizing employees in each subgroup on the

basis of their performance rating of record and then by seniority. Use of performance categories would be added to § 351.501 to provide for the establishment of performance sub-subgroups. These changes would mean that lower rated employees in each subgroup would be released from a competitive level before the better performers.

Sections 351.502, 351.503(b), 351.504, and 351.506 would be revised and § 351.503(b)(3) removed to conform to the foregoing change in crediting performance for RIF.

Sections 351.404(c)(1) and 351.601(a)(3) regarding "unsatisfactory" performance would be removed because they are no longer applicable, since the requirements contained in title 43, U.S. Code, and Chapters 430 and 432 of this title became fully effective on October 1, 1981.

4. *Assignment Rights.* Limits would be placed on assignment rights (bump and retreat) to limit excessive disruption caused by bumping and retreating across the entire grade structure.

Section 351.703(a)(1) would be revised to limit the bump right to a position no more than one grade (or appropriate grade interval or equivalent) lower than the position from which an employee is released. Such employee could only bump another employee in a lower subgroup within the employee's own tenure group or in a lower tenure group.

Section 351.703(a)(2) would be revised to limit the retreat right to any position previously held in the current or previous agency if this position is no more than one grade (or appropriate grade interval or equivalent) below the employee's current position and the position change occurred within the last five years. An employee could retreat to a position only if it is held by another employee in the same tenure group and subgroup but in a lower performance category.

Section 351.701(a)(4) would be revised to assure that employees are fully qualified to do the job into which they bump or retreat.

5. *Notice.* Both the general and specific notice period provisions would be revised.

Section 351.801 would be revised to provide for a 30-day notice period, including both general and specific notices. The current provision which permits a notice period longer than 30 days would be eliminated.

Section 351.803 would be revised to double the specific notice requirement from five to ten days to give employees additional time to prepare for a specific RIF action.

6. *Reclassification.* Section 351.201 would be revised to remove reclassification due to change in duties from RIF procedures. It is difficult to distinguish a downgrade caused by erosion or change in duties from a downgrade caused by a classification error. The former is now covered by RIF procedures and the latter by classification procedures. This change would bring procedures into conformity for these similar situations. In either case, employees would have a classification appeal right and would be eligible for retained grade and pay. This revised section also clarifies agency responsibility for identifying positions to be abolished.

7. *Appeals.* Under OPM's current reduction-in-force regulations, an employee who is demoted, separated, furloughed for more than thirty days, or *reassigned* (where that reassignment requires displacement of another employee) through RIF procedures may appeal to the Merit Systems Protection Board (MSPB). Because reassignment do not affect the grade, pay, or tenure of an employee, they are in effect no different than an administrative reassignment which is never appealable to MSPB.

In addition, under OPM's current regulations, appellants who challenge RIF actions may appeal to MSPB and be granted a hearing. This is the case whether there are any material issues of fact involved, or whether any such material issues of fact require a hearing. As a result, the cost of RIF appeals has greatly increased without a concomitant increase in the protection afforded to appellants.

In order to encourage economy and efficiency of Government operations without in any way detracting from the legitimate rights of employees, we are proposing that only those employees who are demoted, separated, or furloughed for more than thirty days through RIF procedures may appeal to MSPB. We further propose in § 351.901 that MSPB render decisions in RIF actions appealed under this subpart on the basis of the written record where there are no material issues of fact that would require a hearing. Whether and to what extent a hearing should be held in a particular case is a matter that should be determined by the Board.

8. *Disabled Veterans.* Section 351.501(h) would be redesignated (i) and revised to broaden the definition of "disabled veteran" as it applies to certain retired members of the uniformed services under authority of section 307 of Public Law 95-454 (the Civil Service Reform Act of 1978). Section 351.501(j) is added to clarify the entitlement of certain retired members

of the military reserves under chapter 67 of title 10, United States Code.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation applies only to Federal agencies.

List of Subjects in 5 CFR Part 351

Government employees.
Office of Personnel Management.
Donald J. Devine,
Director.

PART 351—[AMENDED]

Accordingly, OPM proposes to amend 5 CFR Part 351 as follows:

1. Paragraph (a) of § 351.201 is revised to read as follows:

§ 351.201 Use of regulations.

(a)(1) Each agency is responsible for determining the categories within which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work.

(2) Each agency shall follow this part when it releases a competing employee from his or her competitive level by separation, demotion, furlough for more than 30 days, or reassignment requiring displacement, when the release is required because of lack of work or funds, reorganization, or the exercise of reemployment rights or restoration rights.

2. Under § 351.402, paragraph (c) is removed, paragraph (d) is redesignated as (c), and paragraph (b) is revised as follows:

§ 351.402 Competitive area.

(b) A competitive area may consist of all or part of an agency. The minimum competitive area is an organizational unit distinguished from others in staff and work functions within the local commuting area.

3. Paragraph (a) of § 351.403 is revised to read as follows:

§ 351.403 Competitive level.

(a) Each agency shall establish competitive levels consisting of all positions in a competitive area and in

the same grade or occupational level which are similar enough in qualification requirements, pay schedules, and working conditions, so that an agency may assign the incumbent of any one position to any of the other positions without changing the terms of his or her appointment. To minimize program disruption an agency may prescribe additional factors in establishing some or all competitive levels. Sex may not be the basis for assigning a position to a competitive level, except for a position for which restriction of certification of eligibles by sex is found justified by OPM.

4. Section 351.404(c) is revised to read as follows:

§ 351.404 Retention register.

(c) The agency shall enter on a list apart from the retention register the name and expiration date of the appointment or promotion of each employee serving in a position under specifically limited temporary appointment or temporary promotion, followed by the name of each employee serving in the competitive level with a written decision under § 432.204(a) of this title to remove him or her because of "Unacceptable Performance" as defined in § 432.202 of this title.

5. Section 351.501(a) and (e) through (h) are revised and paragraphs (i) and (j) are added to read as follows:

§ 351.501 Tenure groups, subgroups, and performance categories—competitive service.

(a) Each agency shall classify on a retention register competing employees who occupy positions in the competitive service in the following groups, subgroups, and performance categories on the basis of tenure of employment, veteran preference, performance, and length of service. The descending order of retention standing is:

- (1) By tenure groups I, II, III;
- (2) Within each group by veteran preference subgroups AD, A, and B;
- (3) Within each subgroup by performance categories as established in accordance with the agency's performance appraisal plan as approved by OPM and the requirements of Chapter 43 of title 5, U.S. Code, and Part 430 of this title; and
- (4) Within each performance category persons ranked beginning with the earliest service date.

(e) Subgroup AD includes each preference eligible employee who has a compensable service-connected

disability of 30 percent or more unless such an employee has a performance rating of "unacceptable" or equivalent under the agency's performance appraisal system.

(f) Subgroup A includes:

(1) Each preference eligible employee who does not have a compensable service-connected disability of 30 percent or more, unless such employee has a performance rating of "unacceptable" or equivalent under the agency's performance appraisal system; and

(2) Each preference eligible employee who has a compensable service-connected disability of 30 percent or more and who has a performance rating of "unacceptable" or equivalent under the agency's performance appraisal system.

(g) Subgroup B includes:

(1) each nonpreference eligible employee; and

(2) Each preference eligible employee who does not have a compensable service-connected disability of 30 percent or more and who has a performance rating of "unacceptable" or equivalent under the agency's performance appraisal system.

(h) Performance categories are those categories established by agencies in accordance with their own performance appraisal plans approved by OPM under Part 430 of this title.

(i) A retired member of a uniformed service is considered a preference eligible under this part only if the member meets at least one of the conditions of the following paragraphs (i)(1), (2), or (3), and, if applicable, the requirements covered in paragraph (i)(4) of this section:

(1) The employee's military retirement is based on disability that either—

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee who retired at the rank of major or above (or its equivalent) who is a disabled veteran as defined in section 2108(2) of title 5,

United States Code, is considered a preference eligible under this part if such employee meets one of the conditions covered in § 351.501(i)(1), (2), or (3).

(j) An employee who is eligible for retired pay from the armed forces under chapter 67 of title 10, United States Code, beginning at age 60, and who retired at the rank of major or above (or its equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code.

6. Section 351.502 is revised to read as follows:

§ 351.502 Tenure groups, subgroups, and performance categories—excepted service.

Each agency shall classify on a retention register competing employees who occupy positions in the excepted service by groups, subgroups, and performance categories that correspond to those for employees in the competitive service having similar tenure of employment and veteran preference, except that an employee who completes 1 year of current continuous service under a temporary appointment is in tenure group III.

7. The introductory material in § 351.503(b) is revised to read as follows:

§ 351.503 Length of service.

(b) An employee's service date is whichever of the following dates reflects his or her total creditable service:

8. § 351.503(b)(3) is removed.

9. § 351.504 is revised to read as follows:

§ 351.504 Credit for performance.

(a) Each employee's performance rating of record on the date of issuance of specific reduction in force notice shall determine the employee's performance category and retention standing under this subpart.

(b) Each agency is responsible for assuring that these provisions are:

(1) Consistent with Part 430 of this title; and

(2) Uniformly and consistently applied in any one reduction in force.

10. The introductory material in § 351.506 is revised to read as follows:

§ 351.506 Effective date of retention standing.

Except for determining the performance categories as provided in § 351.504:

§ 351.601 [Amended]

11. Paragraph (a)(3) of § 351.601 is removed.

12. Paragraph (a)(4) of § 351.601 is redesignated as § 351.601(a)(3).

13. Paragraph (a)(4) of § 351.701 is revised to read as follows:

§ 351.701 Qualifications for assignment.

(a) Except as provided in § 351.702, an employee is qualified for assignment under § 351.603 if the employee:

(4) Clearly demonstrates, on the basis of overall background, including recency of experience, a positive ability to perform effectively all aspects of the specific position at the full performance level upon entry into it, without any loss of productivity beyond that normally to be expected in the orientation of any new, but fully qualified employee and without undue interruption to that activity.

14. Paragraph (a) of § 351.703 is revised to read as follows:

§ 351.703 Assignment involving displacement.

(a) An agency shall assign a group I or II competitive service employee, rather than furlough or separate, to another competitive service position in the same competitive area which requires no reduction, or the least possible reduction, in representative rate when such position is held by an employee:

(1) In a lower subgroup within the employee's own tenure group or in a lower tenure group and whose position is no more than one grade (or appropriate grade interval or equivalent on the basis of a comparison of representative rates) below the position from which the employee was released; or

(2) In a lower performance category in the same tenure group and subgroup only when the position, or an essentially identical one:

(i) Is no more than one grade (or appropriate grade interval or equivalent on the basis of a comparison of representative rates) lower than the one from which the employee was released, and

(ii) Is the one that was previously held by the employee within the last five years in his current or previous agency(s).

15. § 351.801 is revised to read as follows:

§ 351.801 Notice period.

(a) Each competing employee selected for release from his or her competitive

level under this part is entitled to a written notice 30 full days before the effective date of his or her release.

(b) The notice shall not be issued for more than 30 days.

(c) When an agency retains an employee under § 351.606 or § 351.608, the notice to the employee shall cite the data on which the retention period ends as the effective date of the employee's release from his or her competitive level.

16. Section 351.803 is revised to read as follows:

§ 351.803 General and specific notices.

When an agency cannot determine specifically all individual actions at the start of the notice period, it may issue general notices which shall be supplemented by specific notices. The combined general and specific notice periods shall meet the requirements in § 351.801, and the combined contents of the general and specific notices shall meet the requirements in § 351.802.

When an agency issues a general notice, the notice period begins the day after the employee receives the general notice. A general notice expires as stated therein unless an agency cancels such notice. When a general notice is supplemented by a specific notice, an agency may not release an employee from his or her competitive level until at least 10 days after the employee's receipt of the specific notice.

17. Section 351.901 is revised to read as follows:

§ 351.901 Appeal.

An employee who has been separated, demoted, or furloughed for more than 30 days by a reduction-in-force action and who believes this part has not been correctly applied may appeal to the Merit Systems Protection Board. Unless the presiding official determines that there are material issues of fact in dispute that would require a hearing for resolution, the scope of the appeal shall be confined to a review of the written record.

(5 U.S.C. 1302, 3502)

[FR Doc. 83-6139 Filed 3-29-83; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 351

Reduction in Force; Notice of Advance Comments on Proposed RIF Regulations

AGENCY: Office of Personnel Management.

ACTION: Notice of advance comments on proposed regulations.

SUMMARY: As a service to those who may wish to comment on the proposed regulations on reduction in force (RIF) being published elsewhere in today's issue of the *Federal Register*, OPM is publishing comments it has already received on the subject. These comments have not been incorporated into the regulations.

DATE: Comments on the RIF regulations will be considered if received no later than May 31, 1983.

FOR FURTHER INFORMATION CONTACT: Morton I. Horvitz (202) 632-6817.

SUPPLEMENTARY INFORMATION:

Elsewhere in today's issue of the *Federal Register*, OPM is proposing changes to the RIF regulations which would improve operation of the RIF system and give greater recognition to employees' performance as a RIF retention factor.

Prior to formulating its final proposal, OPM has requested ideas on reduction in force from agencies, Members of Congress, unions, individuals, and various organizations.

As a service to others who wish to comment on the RIF regulations, OPM is providing some advance comments, for their consideration in preparing comments.

List of Subjects in 5 CFR Part 351

Administrative practice and procedure, Government employees.

Office of Personnel Management.

Terry W. Culler,

Assistant Director for Planning and Evaluation.

The following are advance comments.

Two Percent Ring

One commenter recommends a two-percent ring concept be initiated which would place a protective barrier around the Government's top performers in order to shield them from the RIF procedure.

Weighting Performance

Another idea that has been presented suggested that outstanding performance be weighted more heavily by giving additional years of credit toward seniority for having achieved such levels of performance. A credit system could be devised which would leave the current order of retention intact while increasing the importance of performance.

Equal Weighting

As an expansion of the proposal to weight performance more heavily, it has been suggested that a method be devised with two critical aspects:

1. Performance appraisals for the previous 3 years must be considered for purposes of RIF retention, rather than taking into account just one performance appraisal.

2. The retention order would be basically the same as currently proposed, but *length of service* and *performance* would be rated equally on a scheme like the following:

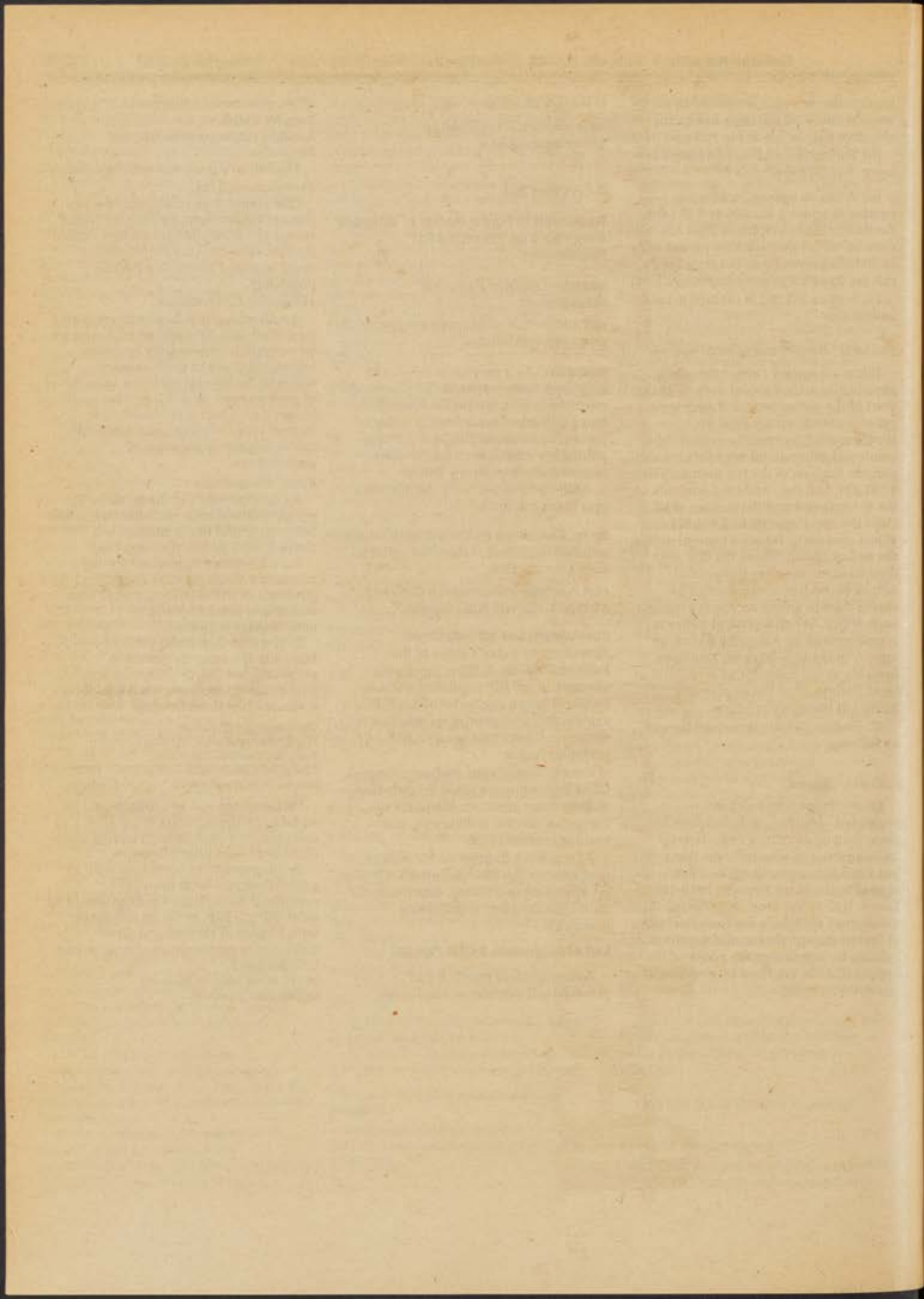
Outstanding—10 points
Highly Successful—7.5 points
Fully Successful—5.0 points
Marginally Successful—1.0 points
Unsatisfactory—0 points

Performance and seniority would be equated on these points in parallel columns with each column having equal number of total possible points.

In this system, an employee with 25 years of service with three fully successful performance ratings would be retained in a RIF, while an employee with 5 years of service and three outstanding performance ratings would be dismissed.

[FR Doc. 83-6182 Filed 3-29-83; 8:45 am]

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federal register

Wednesday
March 30, 1983

Part V

Office of Personnel Management

**Pay Administration Under the Fair Labor
Standards Act: Exemptions; Proposed
Rule**

**OFFICE OF PERSONNEL
MANAGEMENT****5 CFR Part 551****Pay Administration Under the Fair
Labor Standards Act: Exemptions**

AGENCY: Office of Personnel
Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) proposes to amend its regulations pertaining to the application of the exemption criteria of the Fair Labor Standards Act (FLSA) to Federal employees. The current regulations are difficult to administer and are inconsistent with the exemption standards which are applicable to private sector employees. The proposed regulations would greatly simplify the exemption determination process and establish standards which would help to correct these inconsistencies. They also provide criteria for applying the FLSA to employees on detail and to those who travel to or from foreign areas.

DATE: Comments must be submitted on or before May 31, 1983.

ADDRESS: Send or deliver comments to Anthony F. Ingrassia, Assistant Director for Agency Compliance and Evaluation, Room 5450, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Mario Caviglia (202) 632-5691.

SUPPLEMENTARY INFORMATION: The Fair Labor Standards Act (FLSA) provides an exemption from the minimum wage and overtime provisions of the Act for "executive, administrative, and professional" employees. "Exempt" employees are not entitled to overtime under the provisions of the FLSA. On the other hand, "nonexempt" employees are fully covered by the overtime provisions of the Act.

Current OPM regulations provide general criteria for determining the exemption status of employees subject to the General Schedule (GS) and the Federal Wage System (FWS). (The exemption status of employees in other pay systems must be determined by analogy to GS or FWS employees.) These regulations were promulgated in 1975 to implement the extension of the FLSA to the Federal sector which was accomplished by the Fair Labor Standards Amendments of 1974. OPM (then the Civil Service Commission) was given authority to administer the Act for Federal employees because it was recognized that there were conflicts between the FLSA and the existing Federal pay and classification systems.

It is the responsibility of OPM to resolve these conflicts in a manner that is to the extent possible consistent with both the FLSA and Federal pay and classification statutes.

OPM administers the FLSA for all Federal employees, except for those employed by the Postal Service, the Postal Rate Commission, the Library of Congress, and the Tennessee Valley Authority, which are the responsibility of the Department of Labor. Most of the employees under OPM's administration are subject to the statutory pay schemes contained in title 5, United States Code; i.e., the General Schedule (GS) and the Federal Wage System (FWS).

There are three main differences between the FLSA and the title 5 systems: (1) The method in which "hours of work" are counted; (2) the method by which the overtime rate is computed; and (3) the absence of overtime "caps" or limits under FLSA. In many ways the title 5 systems are more generous to employees than the FLSA. For example, paid leave and holidays count as working time under title 5, but not under the FLSA. Also, title 5 provides a full spectrum of premium pay which is not required by the FLSA—night differential, holiday pay, Sunday pay, standby pay, administratively uncontrollable overtime pay, and so forth. On the other hand, the FLSA counts certain travel and training activities as work which are not considered such under title 5. Furthermore, the FLSA includes premium pay as part of the base rate for the determination of the overtime rate and prohibits the overtime caps which apply to GS employees. As administered by OPM, employees are entitled to overtime pay under the FLSA or title 5, depending upon which law provides the greater overtime benefit.

However, the FLSA is not intended to cover everyone. The Act provides an exemption for "executive, administrative, and professional" employees. When OPM's current exemption regulations were promulgated in 1975 there was a rough equivalency between the regulations and the exemption criteria applied by the Department of Labor to the private sector. Since that time, however, OPM's grade-level criteria have grown to be dramatically out of line with the flat salary criteria applied by the Department of Labor (DOL) to the private sector. This discrepancy is not evident in the application of the "primary duty test."

Under the DOL criteria, a salaried employee who makes more than \$250 per week is exempt as long as the employee's primary duty is executive,

administrative, or professional duty. Salaried employees who make less than \$250 are subject to the more stringent "long test" which requires that no more than 20% of the duties performed by an employee can be nonexempt duties if the employee is to be exempt. The equivalent cutoff point for GS employees under current OPM regulations is GS-10, which means a weekly salary of at least \$429 a week. This discrepancy results in the application of the long test to many employees who would be subject to the primary duty test if they were employed in the private sector. Therefore, OPM is proposing to establish the cutoff point for application of the primary duty test at GS-7. Since the minimum salary of a GS-7 is \$318 per week, this change would still leave OPM's cutoff point well above the \$250 standard applied by DOL. Of course, Federal Wage System employees would not be affected by this proposed change since they are not salaried employees.

Under the current regulations the minimum grade level at which an exemption can be applied is GS-5 for the executive exemption, and GS-7 for the administrative and professional exemptions. OPM is proposing to standardize the minimum grade level for applying all three exemptions at GS-5. Consequently, all GS employees at GS-5 and GS-6 would be subject to the long test, and could be exempted only if they perform 80% or more exempt work in a representative workweek. All employees classified below GS-5 would be nonexempt. Based on OPM's experience with the executive exemption, it can be expected that it would be unusual for employees properly classified at GS-5 or GS-6 to meet the long test for exemption. Nonetheless, the proposed change is needed because the General Schedule recognizes the existence of administrative and professional work below GS-7, and because OPM's minimum grade levels for exemption are unrealistically high in comparison to the standard applied by DOL to private sector employees.

OPM also proposes to modify the primary duty test, itself, both to implement needed technical changes and to prescribe that all employees properly classified at GS-11 and above can be presumed to have primary duties which are executive, administrative or professional. The technical changes would involve modifications in the definitions of the terms "executive" and "professional" to make the regulations consistent with the exemption policy contained in FPM Letters 551-7 and 13.

Although these FPM Letters will have to be replaced, they reflect the guidelines which OPM has used in administering the FLSA. FPM Letter 551-13 harmonizes, to the extent possible, the definition of the term "executive" with the definition of the term "supervisory" as used in the Supervisory Grade-Evaluation Guide for position classification. For purposes of the FLSA, an employee who fully meets or exceeds the Supervisory Grade-Evaluation Guide or the "Foreman Range of Responsibility" as defined in the Job Grading Standard for Supervisors is deemed to meet the primary duty test of the FLSA. The proposed regulations would modify the current primary duty definition to reflect the criteria which are contained in FPM Letter 551-13.

The proposed regulations would also slightly change the definition of the term "professional" for purposes of this exemption. This would be done by eliminating the requirement that a professional employee be one "who is practicing a learned or artistic profession." This phrase is misleading in that current OPM instructions make it clear that, for example, high level technicians who apply advanced knowledge in the independent performance of work that is very similar and comparable in level to that performed by professional employees are exempt under the professional definition. The deletion of this phrase, thus, would simply bring the regulations in conformance with the professional exemption definition contained in current OPM instructions.

The definition of primary duty would also be changed so that employees properly classified at GS-11 or above would be presumed to meet the primary duty test. The General Schedule is a statutory classification scheme which prescribes certain levels of responsibility and complexity for a given grade level. OPM's position classification standards which are used to define occupations, series, and grade levels are keyed to these statutory definitions. A reading of either the statutory definition of a GS-11 contained in 5 U.S.C. 5104(11), or of a benchmark description of a GS-11 position in any given standard demonstrates that employees properly classified at GS-11 can be presumed to be performing either executive, administrative, or professional work in terms of the FLSA. Current OPM instructions already exempt almost all categories of employees at GS-11 and above. The proposed change in the definition would provide exemptions for those few categories of employees at

GS-11 and above who are currently exempt and who, if properly classified, should be presumed to be performing exempt work.

At the same time, OPM recognizes that there may exist unique situations in which employees may properly be considered nonexempt above GS-10. Certain employees, such as those involved in air traffic control may be nonexempt above GS-10. Consequently, the Director of OPM will have the authority to grant exceptions to the GS-11 limit. OPM will publish instructions on the procedures applicable for granting exceptions after it has reviewed the application of the proposed regulations to the General Schedule on a series by series basis.

The proposed regulations also provide criteria for applying the foreign exemption, contained in section 13(f) of the Act to employees on temporary duty. The foreign exemption reflects a clear congressional intent that the minimum wage and overtime provisions of the Act not be applied to employees in foreign areas. Thus, this exemption applies to employees permanently stationed in foreign areas. Given the clearly defined scope and purpose of this exemption, it is applicable on a workweek basis to an employee permanently stationed in the United States or other covered area only if the employee performs *all* hours of the work in a foreign area. Compensable travel from a covered area to an exempt area, therefore, is sufficient to defeat the application of the exemption for a given workweek.

Conversely, the foreign exemption is not applicable for any workweek in which an employee permanently stationed in an exempt area performs any of his or her hours of work in a covered area.

For the purposes of the foreign exemption, compensable hours of work performed in international waters or air space does not, of itself, affect the application of the exemption. When an employee departs a covered area and performs compensable hours of work in international waters or air space and then returns to the covered area, the time spent outside the covered area is compensable under the normal requirements of the Act. Similarly, when an employee departs from an exempt area, performs compensable hours of work in international waters or air space and then returns to an exempt area, these activities are covered by the foreign exemption.

Finally, the proposed regulations provide criteria for applying the FLSA exemption criteria when an employee is temporarily assigned to duties which are

not included in the employee's permanent position. By definition, these duties are not included in the representative workweek which is used to define the employee's regular exemption status. Thus, an automatic extension of an employee's regular exemption status for a period of temporary duty, regardless of the duties performed, is not consistent with the general principle applicable under the Act that exemption status must be based on the actual duties performed in the position. On the other hand, the application of a pure workweek principle for exemption determinations would result in an impossible administrative burden for agencies. Both the current regulations of the Department of Labor, and the applicable decisions of the courts recognize that the exemption status of employees under the "primary duty" test is not generally determined on a workweek basis.

The proposed regulations balance these concerns by limiting the application of the workweek standard only to those situations in which the intent of the Act would be violated without making a workweek determination. This objective is achieved by making two basic distinctions in the application of the exemption criteria to employees on temporary duty: (1) A distinction on the basis of whether the temporary assignment exceeds 30 days; and (2) a distinction on the basis of whether the employee is under the primary duty test.

Under current OPM instructions, agencies are required to document details of more than 30 days, unless the employee is detailed to an identical additional position or to a position of the same grade, series code, and basic duties as the position the employee is regularly assigned to. By definition, any detail in excess of 30 days which could affect an employee's exemption status requires a documented personnel action. Thus, a basic premise of the proposed regulations is that the exemption status of an employee who is exempt under the primary duty FLSA test must be re-determined on the basis of the primary duty during the detail, if the detail must be documented. On the other hand, employees exempt under the primary duty concept will not change their exemption status on the basis of short details of 30 days or less.

A different principle applies to employees exempt under the "20 percent rule," however. Since the exemption of these employees is predicated on a representative workweek, a detail of whatever length to duties not reflected

in the representative workweek requires separate workweek determination.

The proposed regulations also provide a special rule for *bona fide* emergency situations. During emergencies, an exempt employee who performs nonexempt duties will be under the "20 percent rule" for every workweek of the emergency, regardless of the employee's grade level. This rule ensures that agencies will have the flexibility to staff for emergencies and also allows for equal treatment for employees doing essentially similar work.

OPM is interested in comments concerning the effectiveness of these proposed regulations in simplifying administration of the FLSA while preserving its protective features for those employees whom the FLSA is intended to cover.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities since it provides procedures only for applying the exemption criteria of the Fair Labor Standards Act to Federal employees.

List of Subjects in 5 CFR Part 551

Government employee, Wages, Fair Labor Standards Act, Travel, Manpower Training Programs, Administrative practice and procedure.
Office of Personnel Management.

Donald J. Devine,
Director.

Accordingly, OPM proposes to amend Part 551 of title 5, Code of Federal Regulations as follows:

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

1. Section 551.102 is amended by adding paragraph (h) to read as follows:

§ 551.102 Definitions.

(h) "Exempt area" means any foreign country, or any territory within the jurisdiction of the United States other than the following locations:

- (1) A State of the United States;
- (2) The District of Columbia;
- (3) Puerto Rico;
- (4) The Virgin Islands;
- (5) Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act (67 Stat. 462);
- (6) American Samoa;
- (7) Guam;

- (8) Wake Island;
- (9) Eniwetok Atoll;
- (10) Kwajalein Atoll; and
- (11) Johnston Island.

2. Subpart B of Part 551 is revised to read as follows:

Subpart B—Exemptions

Sec.

- 551.201 Agency authority.
- 551.202 Exemption of executive, administrative, and professional employees.
- 551.203 General principles governing exemptions.
- 551.204 Executive exemption criteria.
- 551.205 Administrative exemption criteria.
- 551.206 Professional exemption criteria.
- 551.207 Exceptions by the Director of OPM.
- 551.208 Foreign exemption.
- 551.209 Application of the executive, administrative, and professional exemption criteria for periods of temporary duty.

Authority: 29 U.S.C. 204(f)

Subpart B—Exemptions

§ 551.201 Agency authority.

The employing agency shall exempt from the overtime provisions of the Act any employee who meets the exemption criteria of this subpart any such supplemental interpretations or instructions as shall be issued by the Office of Personnel Management.

§ 551.202 Exemption of executive, administrative, and professional employees.

(a) Any employee properly classified below GS-5, or the equivalent level in other white collar pay systems, is nonexempt.

(b) Any employee properly classified at GS-11 and above, or the equivalent level in other white collar pay systems, is presumed to have a primary duty which is executive, administrative, or professional.

(c) The exemption status of any employee not subject to paragraphs (a) and (b) of this section shall be determined under the criteria contained in §§ 551.203, 551.204, 551.205, and 551.206 of this subpart.

§ 551.203 General principles governing exemptions.

In all exemption determinations, the agency shall observe the principles that:

- (a) Exemption criteria shall be narrowly construed to apply only to those employees who are clearly within the terms and spirit of the exemption.
- (b) The burden of proof rests with the agency that asserts the exemption.
- (c) All employees who clearly meet the criteria for exemption must be exempted.

§ 551.204 Executive exemption criteria.

An "executive" employee is a supervisor, foreman, or manager who supervises at least three subordinate employees and who meets all the following criteria:

(a) The employee's primary duty consists of management or supervision. This primary duty requirement is met if:

- (1) The employee is a General Schedule employee whose position is classified as "Supervisory" under the Supervisory Grade-Evaluation Guide;
- (2) The employee is a Federal Wage System employee whose position fully meets or exceeds the "Foreman range of responsibility" as defined in the Job Grading Standard for Supervisors; or
- (3) The employee is subject to a pay system other than the General Schedule or the Federal Wage System and the employee's position meets the definition of Supervisor in the Supervisory Grade-Evaluation Guide or the employee's position fully meets or exceeds the "Foreman range of responsibility" as defined in the Job Grading Standard for Supervisors.

(b) In addition to the primary duty criterion that applies to all employees, Foremen level supervisors in the Federal Wage System (or the equivalent in other wage systems) and employees classified below GS-7 (or the equivalent in other white collar pay systems) must spend 80 percent or more of the worktime in a representative workweek on supervisory and closely related work.

§ 551.205 Administrative exemption criteria.

An administrative employee is an advisor, assistant or representative of management, or a specialist in a management or general business function or supporting service who meets all of the following criteria:

- (a) The employee's primary duty consists of work that:
 - (1) Significantly affects the formulation or execution of management policies or programs; or
 - (2) Involves general management or business functions or supporting services of substantial importance to the organization serviced; or
 - (3) Involves substantial participation in the executive or administrative functions of a management official.
- (b) The employee performs office or other predominantly nonmanual work which is:
 - (1) Intellectual and varied in nature; or
 - (2) Of a specialized or technical nature that requires considerable special training, experience, and knowledge.

(c) The employee must frequently exercise discretion and independent judgment, under only general supervision, in performing the normal day-to-day work.

(d) In addition to the primary duty criterion that applies to all employees, General Schedule employees below GS-7 (or the equivalent in other salary systems) must spend 80 percent or more of the worktime in a representative workweek on administrative functions and work that is an essential part of those functions.

§ 551.206 Professional exemption criteria.

A professional employee is an employee who meets all of the following criteria, or any teacher who is engaged in the imparting of knowledge or in the administration of an academic program in a school system or educational establishment.

(a) The employee's primary duty consists of:

(1) Work that requires knowledge in a field of science or learning customarily and characteristically acquired through education or training that meets the requirements for a bachelor's or higher degree, with major study in or pertinent to the specialized field as distinguished from general education; or is performing work, comparable to that performed by professional employees, on the basis of specialized education or training and experience which has provided both theoretical and practical knowledge of the specialty, including knowledge of related disciplines and of new developments in the field; or

(2) Work in a recognized field of artistic endeavor that is original or creative in nature (as distinguished from work which can be produced by a person endowed with general manual or intellectual ability and training) and the result of which depends on the invention, imagination, or talent of the employee.

(b) The employee's work is predominantly intellectual and varied in nature, requiring creative, analytical, evaluative, or interpretative thought process for satisfactory performance.

(c) The employee frequently exercises discretion and independent judgment, under only general supervision, in performing the normal day-to-day work.

(d) In addition to the primary duty criterion that applies to all employees, General Schedule employees below GS-7 (or the equivalent in other salary

systems), must spend 80 percent or more of the worktime in a representative workweek in professional functions and work that is an essential part of those functions.

§ 551.207 Exceptions by the Director of OPM.

The Director of the Office of Personnel Management may provide exceptions for specific occupations to the presumption of exemption at GS-11 and above which is specified in § 551.202(b) of this subpart.

§ 551.208 Foreign exemption.

(a) This section provides criteria for applying the "foreign exemption" contained in section 13(f) of the Act. An employee who is exempt under the foreign exemption is not subject to the minimum wage and overtime provisions of the Act. The exemption status of an employee to whom the foreign exemption is not applicable shall be determined under the general criteria contained in this subpart.

(b) Except as provided in § 551.208(d), an agency shall apply the foreign exemption to any employee who is permanently stationed in an "exempt area" as defined in § 551.102(h).

(c) An agency shall also apply the foreign exemption on a workweek basis to an employee on temporary duty who is not permanently stationed in an exempt area, but who performs all hours of work in a given workweek in an exempt area.

(d) The foreign exemption is not applicable to an employee permanently stationed in an exempt area for any given workweek in which the employee performs any hours of work in the United States or in a territory under the jurisdiction of the United States.

§ 551.209 Application of the executive, administrative, and professional exemption criteria for periods of temporary duty.

(a) This section applies only when an employee is assigned to perform duties which are not included in the employee's permanent position. For any such period of temporary duty, the exemption criteria contained in §§ 551.202 through 551.206 of this subpart shall be applied using the procedures specified in this section.

(b) A nonexempt employee who is assigned to temporary duty shall remain nonexempt for the period of the temporary duty unless:

(1) The employee's permanent position is classified at GS-5 or above (or the equivalent level in other white collar pay systems) and the temporary duty exceeds 30 days; and the employee's temporary duty is executive, administrative, or professional duty;

(2) The employee is temporarily promoted to GS-5 or above (or the equivalent level in other white collar pay systems) and the employee's primary duty for the period of temporary duty is executive, administrative, or professional duty; or

(3) The employee is a prevailing rate employee who is temporarily promoted to a General Foreman position.

(c) An exempt employee who is assigned to temporary duty shall remain exempt for the period of the temporary duty unless:

(1) The employee's classification for the period of temporary duty is below GS-11 (or the equivalent level in other white collar pay systems) and the temporary duty exceeds 30 days and the employee's temporary duty is not executive, administrative, or professional duty;

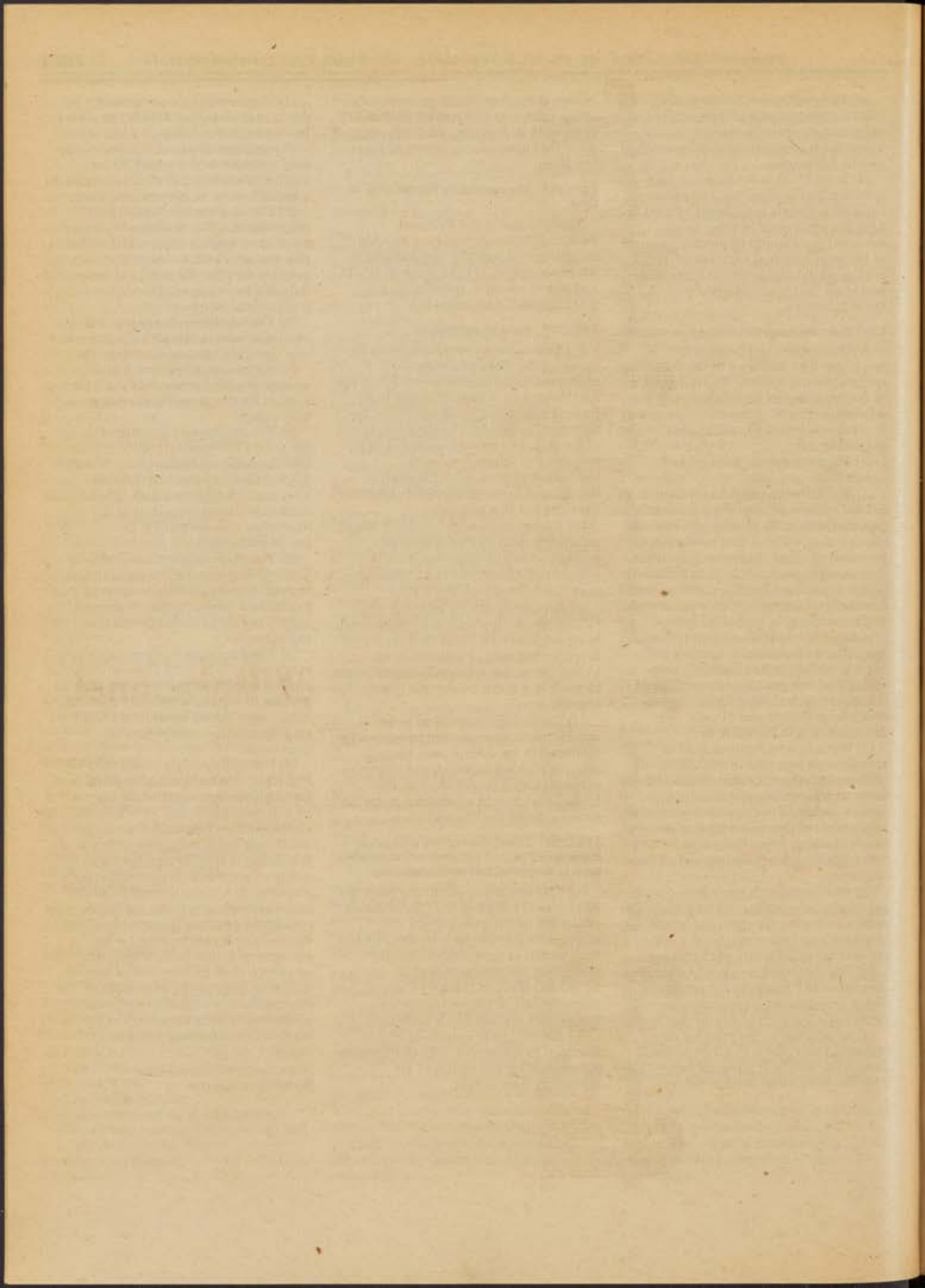
(2) The employee is classified as a General Foreman for the period of the temporary duty and the temporary duty exceeds 30 days and the employee's temporary duty for this period is not executive duty;

(3) The employee is a prevailing rate employee who is not a General Foreman and the employee spends more than 20 percent of a given workweek performing nonexempt duties, in which case the employee is nonexempt for that workweek.

(d) Notwithstanding paragraphs (b) and (c) of this section and regardless of an employee's grade level, in the case of an emergency the employee's exemption status shall be determined on a workweek basis if the emergency is of the nature that threatens the life or safety of people, or serious damage to property, or serious disruption to the operations of an activity, and there is no recourse other than to assign qualified exempt employees to perform the emergency duties. In such situations, the employee shall be nonexempt for any workweek during the period of the emergency in which the employee spends more than 20 percent of the workweek performing non-exempt duties.

[FR Doc. 83-8140 Filed 3-29-83; 8:45 am]

BILLING CODE 5325-01-M



Register

Wednesday
March 30, 1983

Part VI

Office of Personnel Management

**Management Rights, Consultation and
Scope of Bargaining Policy in Labor-
Management Relations; Notice**

OFFICE PERSONNEL MANAGEMENT

Management Rights, Consultation and Scope of Bargaining Policy in Labor-Management Relations

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice sets forth the Office of Personnel Management's intention to publish a Federal Personnel Manual (FPM) issuance on management rights, consultation and scope of bargaining policy in labor-management relations. Although this material will constitute policy guidance, and is therefore not subject to the formal review period required by the Administrative Procedures Act, the Office of Personnel Management is seeking comments before publishing the issuance. The opinions and views of public employee organizations and other interested parties in the Federal community and the general public are earnestly sought. The text is shown below.

DATE: Comments must be received on or before May 31, 1983.

ADDRESS: Send or deliver comments to Patrick Korten, Office of Personnel Management, Office of Policy and Communications, Room 7K51, 19th and E Streets, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Allan D. Heuerman, 202-632-8811.

SUPPLEMENTARY INFORMATION: Text of FPM Letter.

SUBJECT: Management Rights, Consultation and Scope of Bargaining Policy in Labor-Management Relations

a. Since the enactment of the Civil Service Reform Act (CSRA), the Office of Personnel Management has been monitoring the impact of the Federal labor-management relations program on the effective and efficient management of the Government. OPM carefully studies the decisions of the Federal Labor Relations Authority (FLRA), the Federal Service Impasses Panel (FSIP), and the courts, as well as the provisions of negotiated agreements. To date, this review indicates a large measure of uncertainty among management representatives about the extent to which various issues are, or should be subject to labor-management negotiations. The purpose of this Letter is to state OPM policy on management rights, consultation and the scope of bargaining under the Federal Service Labor-Management Relations Statute (Title VII of CSRA) in order to more effectively meet the mandate of Congress that management rights be

faithfully protected and that collective bargaining be conducted in a manner consistent with the requirement of an effective and efficient Government. In addition, it is hoped that a greater focus can be placed in the future on constructive consultation, where the absence of the formal, confrontational atmosphere which usually prevails in collective bargaining situations may facilitate more meaningful involvement by employee organizations. Labor-management relations in the private sector have increasingly focused on such matters as productivity improvement, prompted by a mutual desire of both labor and management to make American industry more efficient and productive. It is hoped that an equivalent opportunity exists for cooperation of this sort in the Federal government as well.

b. *Prohibited Subjects of Bargaining.* The Federal labor-management relations program limits the scope of bargaining by circumscribing the negotiability of certain matters in order to preserve Congressional and Executive prerogatives and flexibility, the ultimate effect of which gives management the right to make certain decisions unilaterally. These rights are safeguarded in 5 U.S.C. 7106(a). Agency management cannot negotiate its authority: (1) To determine its mission, budget, organization, number of employees, and internal security practices; (2) to hire, assign, direct, lay-off, retain, suspend, remove, reduce in grade or pay, or discipline its employees; (3) to assign work, contract-out work, and determine the personnel by which operations shall be conducted; (4) to make selections for appointment from appropriate sources; and (5) to take necessary actions during emergencies. These restrictions cannot be waived by an agency, and if provisions of a negotiated agreement violate these restrictions, those provisions are invalid and unenforceable.

c. *Other matters are excluded* from agency negotiations because they are proscribed or limited by OPM (or in Government-wide regulations of other agencies) in issuances found in the Code of Federal Regulations (CFR) or the Federal Personnel Manual (FPM). These exclusions especially involve, but are not limited to, questions of pay, retirement, health and life insurance, and other benefits set by law (5 U.S.C. 7117(a)(1)). Nor can OPM be required to negotiate on its issuances, although under 5 U.S.C. 7117(d)(1) qualified labor organizations have the right to consult with OPM on certain of its regulations. Also excluded from negotiations are matters related to prohibited political

activities; the classification of any position; and matters specifically provided for by Federal statute (5 U.S.C. 7103(a)(14)). None of these restrictions can be waived by an agency, and if provisions of a negotiated agreement violate these restrictions, those provisions are invalid and unenforceable.

d. Specific matters that cannot be negotiated by management include:

- Salary, wages or other remuneration (except as provided in § 704 of CSRA).
- Amount of premium pay.
- Amount of environmental pay.
- Retirement benefits and contributions.
- Health insurance benefits and premiums.
- Established holidays.
- Established types and extent of paid leave.
- Union or agency shop provision.
- Time-in-grade requirements.
- Selection of wage-survey data collectors.
- Amount of travel per diem and allowances.
- Restrictions on political activities.
- Standards of conduct.
- Criteria for disability retirement.
- Elimination of positions.
- Determination of agency mission.
- Determination of agency budget.
- Determination of agency organization.
- Determination of the number of agency employees.
- Establishment of internal security practices.
- Action in event of emergency.
- Hiring of employees.
- Assignment of employees.
- Direction of employees.
- Lay-off of employees.
- Demotion of employees.
- Other discipline of employees.
- Promotion of employees.
- Selection of employees from any appropriate source.
- Filling of vacant positions.
- Training assignments.
- Use of seniority as sole basis for assignment.
- Use of quotas for hiring or promotion.
- Length of probationary period.
- Imposition of "freeze" on hiring.
- Determination of competitive areas.
- Assignment of work.
- Contracting-out of work.
- Determination of amount of work hours.
- Classification of positions.
- Establishment of qualifications for positions.
- Determination of critical elements of positions.
- Performance standards for positions.
- Employees' obligation to answer work-related questions.

Use of name tags based on internal security, mission or technology.

Payroll deductions for political purposes, including political action committees.

Choice of appeal route where choice is not provided in law.

Processing EEO complaints under both negotiated and statutory procedures.

Tuition reimbursement.

Any matter which prevents management from exercising any of its rights.

This list should *not* be regarded as including all non-negotiable matters.

e. *Negotiations are limited by an agency's own regulations* to the extent that there is a need for the particular regulation. Agency regulations presumptively bar negotiations unless and until the Federal Labor Relations Authority (FLRA) has determined that no compelling need exists for a particular regulation [5 U.S.C. 7117(a)(3)], except that the bar to negotiations does not apply where more than a majority of the employees affected are in a single bargaining unit, a situation that has been rarely found [5 U.S.C. 7117(a)(3)]. Proposals which address or affect existing agency regulations should be evaluated carefully to assure that no negotiations bearing on agency regulations for which a compelling need exists are permitted to commence.

f. The Statute does *permit* negotiations, *at the election of the agency*, on limited topics that would otherwise be excluded. These are (1) the numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty and, (2) the technology, methods and means of performing work [5 U.S.C. 7106(b)(1)]. Negotiations should not commence unless the benefits to efficiency of operations to the Government far outweigh the limitations on management flexibility that may result. If negotiations have commenced on these matters the agency is free to terminate the negotiations at any time prior to agreement being reached.

g. Whether or not any of the following topics may permissively be subject to negotiation, it is OPM policy that agencies should *not* bargain on:

Agency regulations for which a compelling need exists.

Numbers of employees or positions assigned.

Types of employees or positions assigned.

Grades of employees or positions assigned.

Technology, methods and means of performing work.

Amount of, and eligibility for, incentive awards.

Use of part-time employees.

Establishing addition shift(s) or tour(s) of duty.

Transfer of positions within an agency.

Allowing subgroup bumping in a RIF.

Defining competitive areas for RIF covering non-unit employees.

Conditioning employee assignments on specific qualifications.

Procedures for filling supervisory positions.

Assignment of supervisors.

Exceptions to wearing safety clothing.

Use of Government facilities for internal union business.

Crediting plans for rating employees for promotion.

Establishment of day care centers.

Number of management bargaining representatives.

This list should not be regarded as including *all* matters to which OPM would apply this policy. OPM's policy is based on, among other things, due regard for the Constitutional separation of powers and for the need of the Executive Branch to protect management rights in the interest of efficiency, economy, and faithfulness to Executive Branch missions.

h. OPM recognizes the *obligation of agencies and unions to negotiate* on conditions of employment within the framework established by the CSRA and other laws and regulations, including negotiations on the *implementation* of managerial decisions and on appropriate arrangements for employees adversely affected as prescribed in 5 U.S.C. 7106(b)(2) and (3). At the same time, OPM, agency management, and labor organizations share a responsibility to assure that personnel policies and practices facilitate and improve employee performance and the efficient accomplishment of the operation of the Government. This requires that agency management ensure that its negotiators have a full understanding of, and give highest priority to, the protection of management rights in their relations

with union representatives at the bargaining table. Representatives of labor organizations, for their part, have an obligation to negotiate in a manner consistent with the requirement of an effective and efficient Government. The mutual obligation to bargain does not, of course, compel either party to agree to a proposal or to make a concession [5 U.S.C. 7103(a)(12)]. Bargaining over implementation procedures or arrangements should be conducted within the organizational subdivision affected by the management decision and should never infringe upon basic management rights protected in 5 U.S.C. 7106 or any other management rights that are necessary to proper performance of an agency's mission. Neither should such bargaining ever be allowed to have a negative effect on operating efficiency or the public interest.

i. Some matters which may or may not be negotiable may be very appropriate for *consultation*. Consultation entails adequate notice to the union and an opportunity to comment on or discuss a matter before management proceeds. If consistent with an agency's mission, OPM policy is to consult on:

Improvement of agency productivity, including "quality circles" programs.

Employee participation in occupational health and safety activities.

Equipment maintenance improvement programs.

Programs to reduce absenteeism.

Experimental and demonstration projects

Energy conservation and commuting programs.

Blood assurance/donation plans.

Alcohol and drug abuse programs.

Credit union and banking services.

Suggestion awards system.

Troubled employee counseling.

Revisions to personal property security procedures.

Utilization of reduced work space.

Identification of training needs.

Developing an internal newsletter.

This list should not be regarded as including *all* matters to which OPM might apply this policy.

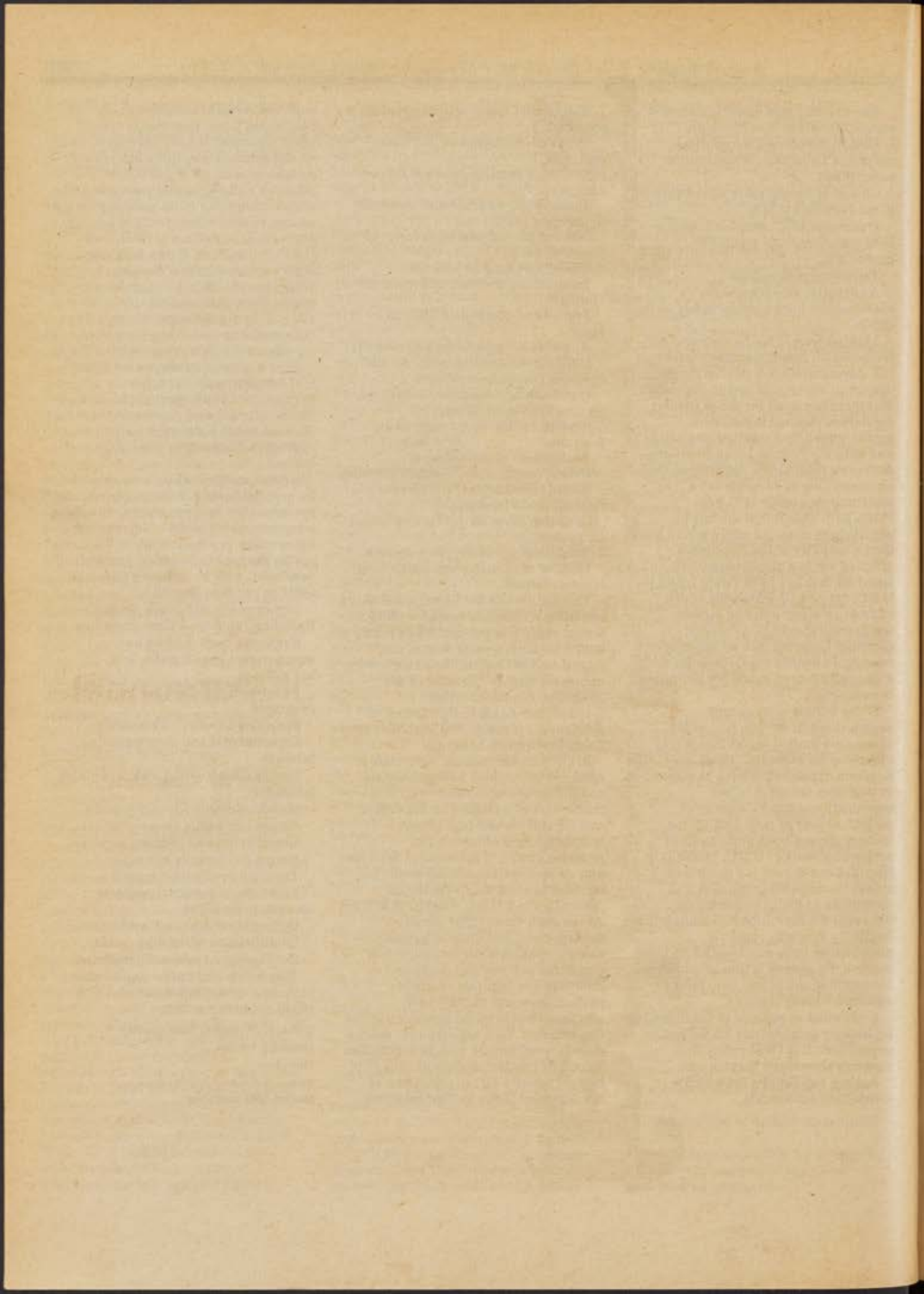
Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-8141 Filed 3-29-83; 8:45 am]

BILLING CODE 5325-01-M



Federal Register

Wednesday
March 30, 1983

Part VII

Office of Personnel Management

Prevailing Rate Systems; Final Rule

**OFFICE OF PERSONNEL
MANAGEMENT****5 CFR Part 532****Prevailing Rate Systems****AGENCY:** Office of Personnel Management.**ACTION:** Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing these regulations to implement the results of a study which it conducted of blue collar supervisory pay practices in private industry. Section 5341 of title 5 of the United States Code provides for Government compensation practices to be kept generally consistent with those which prevail in the private sector.

EFFECTIVE DATE: April 29, 1983.**FOR FURTHER INFORMATION CONTACT:** David Weisberg, (202) 632-5454.

SUPPLEMENTARY INFORMATION: On May 21, 1982, OPM published proposed regulations (47 FR 22100) to change the pay and grading plan for Federal wage supervisors on the basis of a study of counterpart positions in the private sector. After reviewing the comments received, OPM will proceed to implement these changes on a wage area-by wage area basis commencing with the first wage schedule effective on or after April 29, 1983. The changes will be carried out over a two year period to minimize Government expenditures under the Administration's economic recovery program. The implementation of these changes will result in the same degree of comparability with private industry for Federal wage supervisors which exists for other Federal employees. In the first year of implementation, the WS-19 linkage point in the pay formula for appropriated fund supervisors will be changed from GS-14, step 1, to GS-14, step 2. In the second year of implementation, all properly graded General Foremen will be raised one grade, and the WS-19 linkage point will be changed to GS-14, step 3. The pay formula change for appropriated fund wage supervisors will be accomplished through the regulatory changes described herein; the grading change for General Foreman positions will be carried out through the application of a new supervisory job grading standard.

Analysis of Comments

The proposed regulations for wage supervisors provided a 60 day period for public comment. OPM received comments from three agencies, one employee organization and 13

individuals. One agency felt that the General Foreman grading changes should be limited to positions at grades WS-11 and above. We do not agree because the private industry study showed that General Foremen at all grades were significantly behind their private industry counterparts. That same agency recommended that the pay differential lag for positions in grades WS-11 through WS-17 be rectified by applying the industry differentials directly to those positions, rather than by changing the WS-19 linkage point in the current parabolic curve pay formula. We cannot adopt this suggestion because the OPM analysis showed that the present parabolic curve represented the best overall fit for the survey data. In addition, direct application of industry differential results would lead to pay inversion situations (wage supervisors making more than their General Schedule supervisors) in some wage areas. This situation is avoided when the parabolic curve pay formula is continued. A second agency suggested that General Foremen should not be upgraded without making like adjustments for Foremen. We do not agree because the results obtained in the private sector study showed that Federal General Foremen trailed their private industry counterparts, but that Foremen did not. This same agency believed grade WS-19 should not be used to anchor the supervisory pay formula because that grade is not currently authorized for the classification of wage supervisor positions. We do not believe this is a reason to change the current pay formula because it will be possible to classify positions to WS-19 under the new job grading standard which is to be issued as part of the implementation of the revised pay and grading plan for supervisors. This agency also believed it was inappropriate to deal with an industry pay lag through the device of a job grading adjustment for General Foremen. We do not agree with this position because the current grading system is based directly upon a 1968 private industry study, and the General Foremen grading changes will simply reflect the updated industrial data obtained in the 1979 study.

The third agency which commented suggested that there be individual adjustments for positions in grades WS-1 through WS-10 to reflect survey results obtained at each of these grades. We cannot accept this proposal because it would adversely affect the alignment of Federal positions on the basis of fluctuations in survey data which primarily result from the small numbers of samples obtained at some of the WS

grades. The weighting of the overall industry results for grades WS-1 through WS-10 avoids this problem. This same agency also objected to what they felt was a granting of pay increases to wage supervisors which was not being given to other Federal employees. The employee organizations and four individuals expressed the same viewpoint. OPM believes it is appropriate to make these changes because they will bring Federal wage supervisors up to the same level of pay restraint and relative comparability with industry which exists for other Federal employees. Without these changes, wage supervisors would continue to have a greater degree of pay restraint imposed upon them than exists for employees in the General Schedule and nonsupervisory wage categories.

Three supervisory production facilitating employees noted that their pay levels were aligned with specific grades of wage supervisors, and they therefore requested that their levels be raised to correspond to the grade increases which are proposed for General Foremen. OPM cannot take this action because the 1979 supervisory study, which supported the General Foremen increases, did not include a review of production facilitating positions. In addition, the pay levels of production facilitating positions are established by a special pay plan which can only be revised after a review by the Federal Prevailing Rate Advisory Committee (FPRAC) and subsequent approval of recommended changes by the Director, OPM. A FPRAC review of these positions cannot be undertaken at this time because they are currently the subject of an intensive study within the Department of Defense.

One supervisory production facilitating employee was concerned because some of his subordinates were at higher step rates and received rates of pay which exceeded his own. This comment was not relevant to the proposed regulation. Three individuals supported the OPM proposal for changing supervisory grades and the supervisory pay formula. One individual stated that all General Foremen, rather than just those in grades WS-11 through WS-17, should be upgraded. The OPM proposal does call for upgrading all General Foremen because, as indicated, the study data showed that these positions trailed their industry counterparts at all of the WS grades. This suggestion will be implemented. One individual believed that study results emanating from a 1979 review should not be implemented because pay rates in some important segments of

industry had declined since the review. OPM will proceed with these changes because any decline in segments of private industry which may have occurred since 1979 is not representative of the overall economy. In addition, any declines which occur will affect both supervisors and subordinates, and will not necessarily affect supervisory-subordinate differential relationships. Finally, the pay differential lag which was observed in 1979 actually reflected a significant pay gap with industry for Federal supervisory positions which had existed since at least 1975.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for purposes of E.O. 12291, Federal Regulation, because it will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a

substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions. The only measurable impact which will result from these regulations will be on the large Federal agencies which have significant numbers of these types of supervisory positions.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wage.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 532—PREVAILING RATE SYSTEM

Accordingly, the Office of Personnel Management is revising 5 CFR 532.203(d)(2) to read as follows:

§ 532.203 Structure of regular wage schedules.

* * * * *

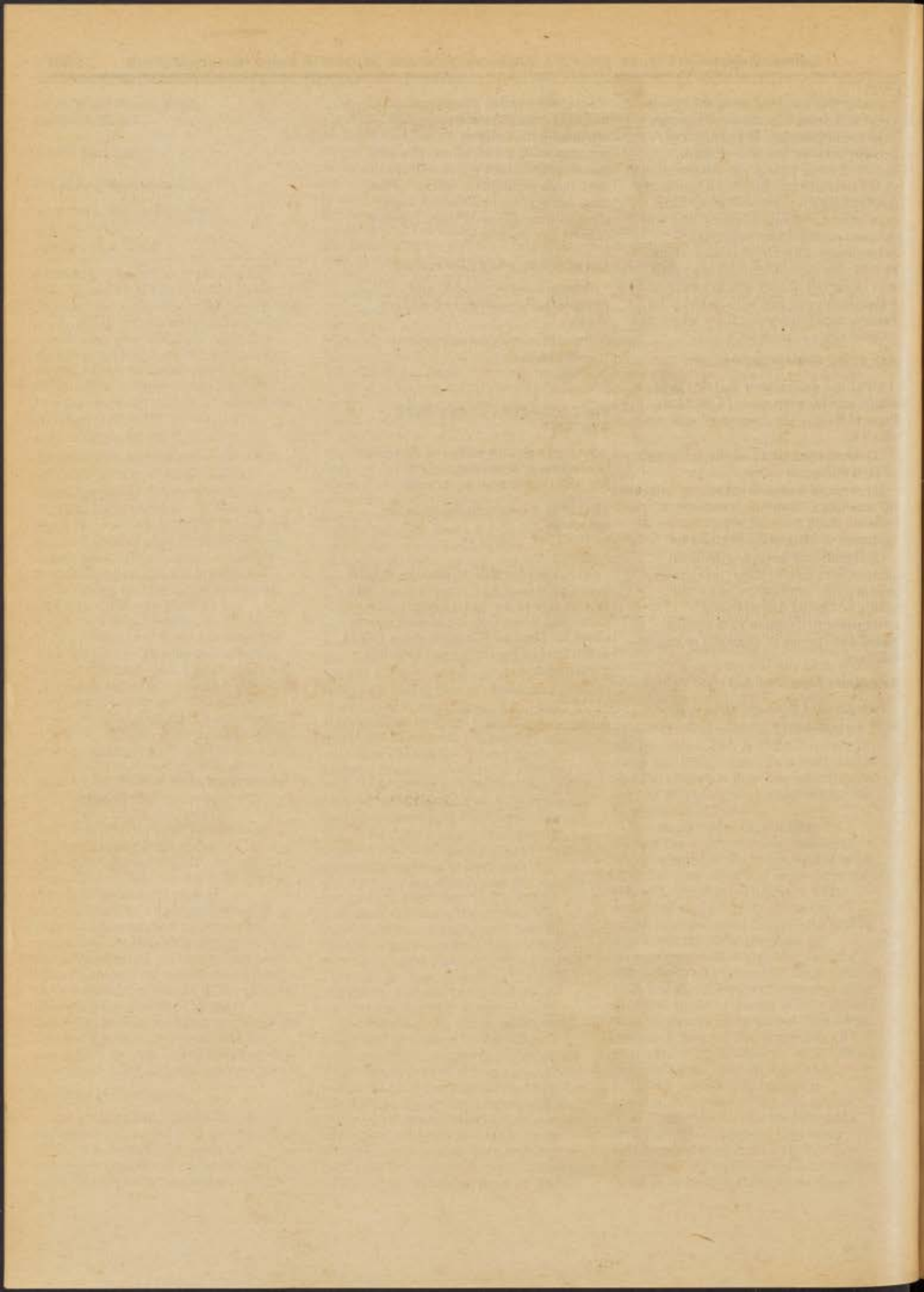
(d) * * *

(2) For grades WS-11 through WS-19, based on a parabolic curve linking the WS-10 rate to the WS-19 rate, which latter rate is equal to the second rate in effect for General Schedule grade GS-14 at the time of the area wage schedule adjustment.

(5 U.S.C. 5343, 5346)

[FR Doc. 83-8183 Filed 3-29-83; 8:45 am]

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federal register

Wednesday
March 30, 1983

Part VIII

Environmental Protection Agency

**Standards of Performance for New
Stationary Sources; Reference Methods;
Quality Assurance and Quality Control
Revisions to Methods 6 and 7; Proposed
Rulemaking and Hearing**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2287-3]

Standards of Performance for New Stationary Sources; Appendix A—Reference Methods; Quality Assurance and Quality Control Revisions to Methods 6 and 7

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this action is to propose quality assurance and quality control revisions to Methods 6 and 7 of Appendix A of 40 CFR Part 60. These revisions would require source testers (for clean air) to analyze audit samples when making compliance determinations in order to assess their analytical accuracy and calculations. The sample collection technique is not evaluated by this check. A quality control guideline for the Method 7 calibration data is also proposed. The current regulation includes only limited quality assurance requirements and as a result of this proposed regulation, the quality of compliance data will improve.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views or arguments concerning the proposed revisions.

DATES: *Comments.* Comments must be received on or before June 13, 1983.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by April 22, 1983, a public hearing will be held on May 11, 1983 beginning at 10:00 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by May 3, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-81-19, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at the Office of Administration Auditorium, Research Triangle Park, NC. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will be held. Persons wishing to present

oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch, (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-5578.

Background Information. This document for the proposed revisions may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Methods 6 and 7 Quality Assurance and Quality Control Revisions—Background Information, EPA 450/3-82-017." This document contains: (1) A summary of the data collected through audit survey studies and the rationale for the proposed revisions, and (2) quality control recommendations that can be used to minimize analytical inaccuracies.

Docket. Docket No. A-81-19, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Shigehara, Emission Measurement Branch (MD-19), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: The proposed revisions will require the source tester to: (1) Analyze audit samples supplied by EPA with each set of Method 6 compliance samples, (2) assure that at least three of the four Method 7 calibration points are within 7 percent of the least squares line, and (3) analyze EPA audits with each set of Method 7 compliance samples.

Miscellaneous

This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking. Rather, this rulemaking adds quality assurance and quality control procedures to the test methods to which the affected facilities are already subject. If future standards impose emission measurement requirements, the impacts of the additions to the test methods promulgated today will be evaluated during development of these standards.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major

because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices; and there will be no 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 rule was sent to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities because the increase in the cost of testing is not substantial.

This proposed rulemaking is issued under the authority of sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

Dated: March 22, 1983.

John W. Hernandez, Jr.,
Acting Administrator.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

PART 60—[AMENDED]

It is proposed that Methods 6 and 7 of Appendix A of 40 CFR Part 60 be amended as follows:

1. In Method 6, by adding Sections 3.3.6, 4.4, and 6.4, and by adding a second paragraph to Section 5.5, as follows:

Appendix A—Reference Methods

Method 6—Determination of Sulfur Dioxide Emissions From Stationary Sources

3. Reagents:

3.3 ***

3.3.6 Quality Assurance Audit Samples. Sulfate samples in glass vials prepared by EPA's Environmental Monitoring Systems Laboratory at the Research Triangle Park, North Carolina. Each set will consist of three vials with one known and two unknown concentrations. Only when making compliance determinations, obtain an audit sample set from the Quality Assurance Management Office at each EPA regional office.

4. Procedure:

4.4 Audit Analysis. With each set or sets of compliance samples, analyze the two unknown audit samples in the same manner as the source samples to evaluate the technique of the analyst and the standards preparation.

Note.—The sample with the known concentration may be used as a quality control check.

The same person, standard reagents, and analytical system shall be used both for each set or sets of compliance samples and the EPA audit samples.

If this condition is met, for compliance samples that are analyzed frequently, it is only necessary to analyze the audit samples once per quarter.

Calculate the concentration in mg/m³ using the specified sample volume in the audit instructions. The concentrations obtained by the analyst shall agree within 5 percent of the actual audit concentrations.

Note.—The actual concentrations of the audit samples may be obtained immediately by reporting the audit and set of compliance results by telephone.

Failure to meet the 5-percent specification will require reanalysis. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the Administrator may waive the reanalysis requirement and accept the results of the compliance test. The Administrator may also choose to use the data to determine the compliance or noncompliance status of the affected facility regardless of the audit results.

Include the results of both audit samples with the results of the compliance determination samples in appropriate reports to the EPA regional office or the appropriate enforcement agency.

5. Calibration:

5.5 ***

Run duplicate analyses. Calculate the normality using the average of a pair of duplicate analyses where the titrations agree within 1 percent or 0.2 ml, whichever is larger.

6. Calculations:

6.4 Relative Error (RE) for QA Audits, Percent.

Where:

C_d = Determined audit concentration, mg/m³.

C_a = Actual audit concentration, mg/m³.

Authority: Secs. 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

2. In Method 7, by adding Section 3.3.9, 4.4, 5.2.3, and 6.5, as follows:

Appendix A—Reference Methods

Method 7—Determination of Nitrogen Oxide Emissions From Stationary Sources

3. Reagents:

3.3 ***

3.3.9 Quality Assurance Audit Samples. Nitrate samples in glass vials prepared by EPA's Environmental Monitoring Systems Laboratory at the Research Triangle Park, North Carolina. Each set will consist of three vials with one known and two unknown concentrations. Only when making compliance determinations, obtain an audit sample set from the Quality Assurance Management Office at each EPA regional office.

4. Procedures:

4.4 Audit Analysis. With each set or sets of compliance samples, analyze two unknown audit samples in the same manner as the samples to evaluate the technique of the analyst and the standards preparation.

Note.—The sample with the known concentration may be used as a quality control check.

The same person, reagents, and analytical system shall be used both for each set or sets of compliance samples and the EPA audit samples. If this condition is met, for compliance samples that are analyzed frequently, it is only necessary to analyze the audit samples once per quarter.

Calculate the concentration in mg/m³ using the specified gas volume in the audit instructions. The concentrations obtained by

the analyst shall agree within 10 percent of the actual audit concentrations.

Note.—The actual concentrations of the audit samples may be obtained immediately by reporting the audit and compliance results by telephone.

Failure to meet the 10-percent specification will require reanalysis. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the Administrator may waive the reanalysis requirement and accept the results of the compliance test. The Administrator may also choose to use the data to determine the compliance or noncompliance status of the affected facility regardless of the audit results.

Include the results of both audit samples with the results of the compliance determination samples in appropriate reports to the EPA regional office or the appropriate enforcement agency.

5. Calibration.

5.2 ***

5.2.3 Spectrophotometer Calibration Quality Control. Multiply the absorbance value obtained for each standard by the K_c factor (least squares slope) to determine the distance each calibration point lies from the theoretical calibration line. These calculated concentration values should not differ from the actual concentrations (i.e., 100, 200, 300, and 400 µg NO₂) by more than 7 percent for three of the four standards.

6. Calculations:

6.5 Relative Error (RE) for QA Audits, Percent.

$$RE = \frac{C_d - C_a}{C_a} \times 100 \quad \text{Eq. 7-5}$$

Where:

C_d = Determined audit concentration, mg/m³.

C_a = Actual audit concentration, mg/m³.

Authority: Sec. 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

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