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Tuesday
April 12, 1983

Selected Subjects

Administrative Practice and Procedure
Civil Aeronautics Board
Internal Revenue Service
Postal Rate Commission

Air Carriers
Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Commodities Exchanges
Commodity Futures Trading Commission

Employment
Employment and Training Administration

Federal Buildings and Facilities
General Services Administration

Food Additives
Food and Drug Administration

Food Assistance Programs
Food and Nutrition Service

Food Grades and Standards
Agricultural Marketing Service

Handicapped
Architectural and Transportation Barriers Compliance Board

CONTINUED INSIDE

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Selected Subjects

Health Insurance
Defense Department

Marketing Agreements
Agricultural Marketing Service

Medical Devices
Food and Drug Administration

Migrant Labor
Wage and Hour Division

National Banks
Comptroller of Currency

Organization and Functions (Government Agencies)
Federal Communications Commission

Pesticides and Pests
Environmental Protection Agency

Radio Broadcasting
Federal Communications Commission

Securities
Federal Home Loan Bank Board

Television Broadcasting
Federal Communications Commission

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 71
Tuesday, April 12, 1983

ACTION
NOTICES
Grants; availability, etc.:
15667 State Office of Voluntary Citizen Participation grant applications; extension of deadline

Agency for International Development
NOTICES
Meetings:
15737 Research Advisory Committee

Agricultural Marketing Service
PROPOSED RULES
15634 Sweetpotatoes, canned; grade standards
15633 Tomatoes; grade standards

Agriculture Department
See Agricultural Marketing Service; Cooperative State Research Service; Food and Nutrition Service; Forest Service; Soil Conservation Service.

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
15748 G. Heileman Brewing Co., Inc.

Architectural and Transportation Barriers Compliance Board
RULES
15625 Handicapped persons; voting accessibility policy

Arts and Humanities, National Foundation
NOTICES
Meetings:
15753 Museum Advisory Panel
15753, 15754 Visual Arts Advisory Panel (2 documents)

Civil Aeronautics Board
RULES
15614 Fee schedules for services benefiting individual recipients; license fees elimination and filing fees revision
PROPOSED RULES
15639 Charter rules for direct and indirect air carriers, revision
NOTICES
Hearings, etc.:
15669 Michigan Airways, Inc.; fitness determination
15670 Pan American World Airways

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
15670 Arkansas

Commerce Department
See International Trade Administration.

Commodity Futures Trading Commission
PROPOSED RULES
Commodity Exchange Act regulations:
15653 Notification of State enforcement actions

Comptroller of Currency
RULES
National banks:
15844 Lending limits; final rule and request for comments

Consumer Product Safety Commission
NOTICES
Meetings:
15670 Asbestos Chronic Hazard Advisory Panel

Cooperative State Research Service
NOTICES
Meetings:
15667–15668 Science and Education Research Grants Program Technical Advisory Committee (6 documents)

Defense Department
See also Defense Logistics Agency; Navy Department.
RULES
Civilian health and medical program of uniformed services (CHAMPUS):
15624 Certified nurse practitioners; payments

Defense Logistics Agency
NOTICES
15671 Privacy Act; systems of records

Delaware River Basin Commission
NOTICES
15674 Hearings

Education Department
NOTICES
Meetings:
15675 Adult Education National Advisory Council

Employment and Training Administration
RULES
Employment service system:
15615 Labor surplus areas and areas of unemployment; classification
NOTICES
Adjustment assistance:
15751 ASARCO, Inc., et al.
15751 McIndustries, Inc., et al.
Job Training Partnership Act:
15752 Performance standards, 1984 FY
15750 Labor surplus area classifications; annual list; additions

Energy Department
See Federal Energy Regulatory Commission.
NOTICES
Meetings:
15692 International Energy Agency; fourth allocation systems test briefing

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.
15627 Chlorpyrifos
Pesticides; tolerances in animal feeds:
15622 Chlorpyrifos
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
15658 Connecticut
Water pollution control:
15662 Hawaii; national pollutant discharge elimination system; applications
NOTICES
Toxic and hazardous substances control:
15692 Premanufacture notification requirements; test marketing exemption applications

Federal Communications Commission
RULES
Commercial radio operators:
15631 Incorporation of new language
Organization, functions, and authority delegations:
15630 Commission's Gettysburg Office; certification of documents
Practice and procedure:
15630 Forfeiture procedures
PROPOSED RULES
Common carrier services:
15663 Telephone companies; Bell Operating Companies after divesture; furnishing of customer premises equipment, enhanced services and cellular communications services; extension of time
Radio stations; table of assignments:
15665 Nevada
Television stations; table of assignments:
15663 Minnesota
NOTICES
Hearings, etc.:
15693 Bender, James A., et al.
15694 Cape Coral Broadcast Production & Management Corp. et al.
15695 Cellular Communications of Cincinnati, Inc., et al.
15708 CIMA Broadcasting Ltd. Partnership et al.
15702 Garfield County Broadcasters et al.
15709 Great Western Communications Co. et al.
15709 Natrona Broadcast Co., Inc., et al.
15702 Northern Indiana Broadcasters, Inc., et al.
15703 Omni Communications, Inc., et al.
15704 Radio Station WPAY, Inc., et al.
15705 Showair, Inc., et al.
15706 Telecommunication Systems, Inc., et al.
Meetings:
15707 National Industry Advisory Committee; location and time change
15707 Radio Broadcasting Advisory Committee
15707 Telecommunications Industry Advisory Group (2 documents)
15707 Rulemaking proceedings filed, granted, denied, etc.; petitions (2 documents)
Senior Executive Service:
15708 Bonus awards schedule

Federal Emergency Management Agency
NOTICES
15710 Privacy Act; systems of records

Federal Energy Regulatory Commission
PROPOSED RULES
Electric utilities (Federal Power Act):
15655 Hyroelectric power projects; annual charges for use of Government dams and other structures; technical conference
NOTICES
Hearings, etc.:
15675 Alabama Power Co.
15675 Arizona Public Service Co.
15676 Arkansas Louisiana Gas Co.
15676 Canyon Creek Compression Co.
15676 Central Illinois Light Co.
15677 Cities Service Oil & Gas Corp. et al.
15680 Connecticut Light & Power Co.
15680 Consumers Power Co. (2 documents)
15681 Delhi Gas Pipeline Corp. et al.
15681 Duke Power Co.
15681 El Paso Natural Gas Co.
15682 Energenics Systems, Inc.
15682 Gas Gathering Corp.
15682 GPU Service Corp.
15683 Houston Pipe Line Co. et al.
15683 Kansas Power & Light Co.
15684 Maine Public Service Co.
15684 Michigan Wisconsin Pipe Line Co.
15684 Natural Gas Pipeline Co. of America
15684, 15685 Niagara Mohawk Power Corp. (2 documents)
15685 North Counties Hydro-Electric Co. et al.
15685, 15686 Northern Natural Gas Co. (2 documents)
15686 Northern States Power Co.
15687 Ohio Edison Co.
15687 Pennsylvania Electric Co. et al.
15687 Rochester Gas & Electric Corp.
15688 Transcontinental Gas Pipe Line Corp.
15689 Union Electric Co.
15689 Utah Power & Light Co. (2 documents)
15689 Virginia Electric & Power Co.
15690 Western Massachusetts Electric Co.
15692 Wisconsin Power & Light Co.
15763 Meetings; Sunshine Act
Natural gas companies:
15688 Small producer certificates, applications (SB Special Investments Holding Co. et al.)
Natural Gas Policy Act:
15834, 15839 Jurisdictional agency determinations (2 documents)

Federal Home Loan Bank Board
RULES
Federal savings and loan system:
15591 Mutual to stock form conversions

Federal Housing Commissioner—Office of Assistant Secretary for Housing
NOTICES
Mortgage and loan insurance programs:
15724 Maximum mortgage limits for high-cost areas

Federal Maritime Commission
NOTICES
15711 Agreements filed, etc.

Federal Reserve System
NOTICES
Applications, etc.:
15713 Carolina Mountain Holding Co. et al.
15713 St. James Bancorporation, Inc.
15713 Societe Generale International, Inc.
15713 Southeast Banking Corp.
15714 Stillwater Holding Co.
Bank holding companies; proposed de novo nonbank activities:
15714 Citicorp et al.
15712 First Interstate Bancorp.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
15619 Bambermycins
15619 Cloprostenol sodium
15620 Lincomycin
15618 2-Mercaptobenzothiazole solution
Food additives; adjuvants, production aids, and sanitizers:
15617 4-((4,6-bis(octylthio)-*s*-triazin-2-yl) amino)-2, 6-di-*tert*-butylphenol
Medical devices:
15621 Investigational device exemptions; technical amendments
PROPOSED RULES
Food for human consumption:
15655 Whey cheeses; identity standards establishment; advance notice; correction
Human drugs:
15655 Skin protectant for over-the-counter (OTC) use; tentative final monograph; correction
NOTICES
Food additive petitions:
15716 Armak Co.
15720 Ciba-Geigy Corp. (2 documents)
Human drugs:
15717 Bentyl syrup with phenobarbital; drug efficacy study implementation; temporary exemption revoked, etc.
Medical devices:
15721 Downs Surgical, Inc.; sugita aneurysm clip; reclassification petition
Medical devices; premarket approval:
15720 Cilco, Inc.
Meetings:
15715 Advisory committees, panels, etc.
15721 Consumer information exchange

Food and Nutrition Service
PROPOSED RULES
Child nutrition programs:
15637 Child care food program audit requirements

Forest Service
NOTICES
Meetings:
15669 Gifford Pinchot National Forest

General Services Administration
RULES
Property management:
15628 Accessibility standard, physically handicapped accommodations

Geological Survey
NOTICES
15734 Side-looking airborne radar image products; price change

Health and Human Services Department
See Food and Drug Administration; Social Security Administration.

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Interior Department
See Geological Survey; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
15623 Procedural rules statement; miscellaneous amendments
PROPOSED RULES
Income taxes:
15655 Employee awards deductibility; hearing

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Meetings:
15670 President's Export Council

Interstate Commerce Commission
RULES
Practice and procedure:
15632 Rail carriers; revenue proceedings division processing; revised procedures; correction
NOTICES
Motor carriers:
15737 Finance applications
15740, 15744 Permanent authority applications (2 documents)
15743 Permanent authority applications; operating rights republication
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
15737 D & G Trucking Co., Inc., et al.
15739 Regal Transportation, Inc., et al.

Justice Department
See Antitrust Division.

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Wage and Hour Division.
NOTICES
Meetings:
15750 Trade Negotiations and Trade Policy Labor Advisory Committee

Land Management Bureau
NOTICES
Disclaimer of interest to lands:
15733 Arizona
Geothermal resources lease sales:
15733 Wabuska, Nev.; revoked
Meetings:
15733 California Desert District Advisory Council
Public lands for State indemnity selection applications:
15733 Colorado; correction
Sale of public lands:
15734 Oregon

Legal Services Corporation
RULES
15630 Limitations and restriction on use of funds; implementation; correction

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
15752 Big Fist Coal Co., Inc.
15753 Consolidated Coal Co.

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
15796 Central Gulf of Mexico; leasing systems and lease offering
15782 Central Gulf of Mexico; oil and gas lease offering
15735 Eastern Gulf of Mexico; lease offering stipulation
15795 Oil and gas lease sales; restricted joint bidders; list

National Park Service
NOTICES
Environmental statements; availability, etc.:
15735 Piscataway Park, Md.; general management plan, etc.
Historic Places National Register; pending nominations:
15736 Alabama et al.
Meetings:
15736 Upper Delaware Citizens Advisory Council
Oil and gas plans of operation; availability, etc.:
15736 Big Thicket National Preserve, Tex.

National Science Foundation
NOTICES
15754 Commercial and industrial firms, involvement with NSF-supported research facilities; policy statement

Navy Department
NOTICES
15673 Privacy Act; systems of records

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
15756 Niagara Mohawk Power Corp.; correction

Personnel Management Office
PROPOSED RULES
15633 Performance management system; correction
NOTICES
15756 Agency forms submitted to OMB for review

Postal Rate Commission
RULES
Practice and procedure rules:
15626 Automatic participant status

Postal Service
NOTICES
15764 Meetings; Sunshine Act

Securities and Exchange Commission
NOTICES
Hearings, etc.:
15757 Raymond Industries, Inc.
15764 Meetings; Sunshine Act
Self-regulatory organizations:
15759 Options-related sales; program for allocation of regulatory responsibilities
Self-regulatory organizations; proposed rule changes:
15756 American Stock Exchange, Inc.
15756 New York Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
15761 HMS Capital, Ltd.
License surrender:
15761 TDH Capital Corp.
Meetings; regional advisory councils:
15761 Maryland
15761 Mississippi
15761 New Hampshire

Social Security Administration
RULES
Public assistance programs:
15629 Quality control system; review completion requirements; correction

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
15669 Coos County Farm Agriculture Related Pollutant Control RC&D Measure, N.H.
Watershed projects; deauthorization of funds:
15669 Westfield River Watershed, Mass.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
15656 New Mexico

Treasury Department
See Comptroller of Currency; Internal Revenue Service.

Veterans Administration
NOTICES
15761 Agency forms submitted to OMB for review

Wage and Hour Division
RULES
15800 Migrant and seasonal agricultural worker protection regulations; interim

---

Separate Parts of This Issue

Part II
15782 Department of the Interior, Minerals Management Service

Part III
15800 Department of Labor, Wage and Hour Division

Part IV
15834 Department of Energy, Federal Energy Regulatory Commission

Part V
15844 Department of the Treasury, Comptroller of the Currency

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Proposed Rules:
451 15633

7 CFR
Proposed Rules:
51 15633
52 15634
226 15637

12 CFR
3 15844
6 15844
7 15844
32 15844
552 15591
563b 15591

14 CFR
389 15614
Proposed Rules:
207 15639
208 15639
212 15639
298 15639
380 15639

17 CFR
Proposed Rules:
1 15653

18 CFR
Proposed Rules:
4 15655
11 5655

20 CFR
651 15615
654 15615

21 CFR
175 15617
178 15617
510 15618
522 15619
524 15618
558 (2 documents) 15619, 15620
561 15622
812 15621
Proposed Rules:
133 15655
347 15655

26 CFR15623
601 15623
Proposed Rules:
1 15655

29 CFR
500 15800

30 CFR
Proposed Rules:
931 15656

32 CFR
199 15624

36 CFR
1151 15625

39 CFR
3001 15626

40 CFR
180 15627
Proposed Rules:
52 15658
403 15662

41 CFR
101-19 15628

45 CFR
205 15629
1612 15630

47 CFR
0 15630
1 15630
13 15631
Proposed Rules:
Ch. I 15663
73 (2 documents) 15663, 15665

49 CFR
1137 15632

Rules and Regulations

Federal Register
Vol. 48, No. 71
Tuesday, April 12, 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.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 552 and 563b

[No. 83-149]

Conversions From Mutual to Stock Form

March 17, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; solicitation of comments.

SUMMARY: The Federal Home Loan Bank Board ("Board"), under its authority and as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is amending its regulations governing the conversion to the stock form of mutual institutions the accounts of which are insured by the Corporation ("insured institutions"). The amendments divide the Board's Conversion Regulations, 12 CFR Part 563b, into four subparts. In Subpart A the Board has amended its standard conversion regulations to allow converting insured institutions additional flexibility in structuring their conversions and to decrease the expense and time required for conversion. In addition, the Board is reducing certain restrictions on the operations of converted insured institutions. The Board also has determined to eliminate the test-case restriction on the conversion of insured institutions where the conversion will involve the establishment of a holding company, the acquisition of the converting insured institution by an existing holding company, or the merger of the converting insured institution with an insured stock institution. In Subpart B, the Board for the first time is permitting a converting insured institution to sell a controlling block of its stock to a third party or parties in connection with the conversion, and has specified the rules and procedures applicable to sale-of-control conversions. This option should provide converting institutions with an alternative that could in appropriate circumstances substantially increase both the feasibility of effecting their conversions and the amount of capital to be received thereby. In Subpart C, the Board also for the first time is specifying the qualifications for the rules and procedures applicable to voluntary supervisory stock conversions, in which an insured institution converts to the stock form without the consent of or participation by the mutual members. Finally, in Subpart D, the Board is establishing guidelines for modified conversions undertaken pursuant to Section 121 of the Garn-St Germain Depository Institutions Act of 1982, under which the Board may authorize a state-chartered insured institution, and order a Federally-chartered insured institution, to convert to the stock form without mutual member consent and with restrictions on the rights of mutual members set forth in the Subpart A standard conversion regulations.

The purpose of these regulations are to ease current restrictions on conversions, provide increased flexibility to converting insured institutions and their members, enable converting insured institutions to reduce the time and expense of conversion, and implement the Board's supervisory and modified conversion authority.

DATES: Effective April 11, 1983. Comments must be received by June 13, 1983.

ADDRESS: Send comments to Director, Information Services, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION, CONTACT: J. Larry Fleck (202) 377-6413, Deputy Director, Division of Securities and Corporate Analysis, Office of the General Counsel, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION:

Subpart A—Standard Conversions

The principal amendments to the Board's current standard conversion regulations are the following: (1) Deletion of the authority of a converting insured institution to adopt a stock option plan for the converted insured institution; (2) addition of a mandatory provision that converting insured institutions shall not knowingly loan funds or otherwise extend credit to any person for the purchase of conversion stock; (3) elimination, on an optional basis, of the separate subscription offering if subscription rights issued in connection with the conversion may be exercised on a priority basis by delivery of order forms to the underwriters or selling group for the public offering or pursuant to any other procedure approved by the Board; (4) reduction of the term of the restriction against repurchases by a converted insured institution of its capital stock from ten years to three years; (5) reduction of the term of the restriction on payment of dividends by a converted institution from ten years to three years; (6) elimination of certain substantive provisions governing the contents of the appraisal of the capital stock of the converting institutions, provided that (a) the converting insured institution files with the Corporation as part of the institution's application all pricing material used by the independent appraiser in connection with the pricing of the capital stock to be issued in the conversion, and (b) the institution files with the Board any additional material with respect to the the pricing of the capital stock as the Board may request; (7) deletion of the requirement that the pricing materials be filed with the application for conversion if the converting insured institution does not intend to commence the subscription offering until after the special meeting of association members; (8) a provision permitting the payment of underwriting commissions or discounts with respect to shares of capital stock sold pursuant to the exercise of subscription rights if the plan of conversion provides for the sale of such stock through the underwriters or selling group; (9) elimination of the test-case restrictions on conversions in connection with the formation of a holding company, the acquisition of the converting institution by an existing holding company, or the merger of the converting institution with an existing insured stock institution; and (10) elimination of the restrictions on the adoption of anti-takeover charter amendments by converted insured institutions.

The Board's last major revisions to the Conversion Regulations were adopted on April 28, 1982, pursuant to Resolution No. 82-311 (47 FR 19672), and on February 10 and February 18, 1983, pursuant to Resolution Nos. 83-74 (48 FR 7432) and 83-91 (48 FR 8429), respectively. These amendments eased unnecessary restrictions to allow converting institutions greater flexibility in structuring their conversions. At that time, the Board perceived that intra-industry acquisitions and corporate reorganizations would benefit individual converting insured institutions and the savings and loan industry. The Board therefore determined to permit on a test-case basis complex, multi-party conversions.

Since the adoption of these amendments, the Board has continued to review its Conversion Regulations to determine what further measures, if any, it could take to further relieve converting insured institutions of unnecessary regulatory burdens and, also, to identify those procedures or rules that have not survived the test of time. The Board believes that it has identified several further instances in which the provisions of the current conversion regulations may be further amended without disturbing the balance reflected in the current regulations between the benefits to an institution of flexibility in structuring its conversion and the rights of the institution's members to participate in the conversion process.

The particular regulations being adopted by the Board are discussed in more detail below.

Stock Option Plans

Current § 563b.3(d)(11) permits a converting insured institution to adopt a stock option plan for the converted insured institution, and specifies the requirements of such a plan. The Board has concluded that a stock option plan is a matter of interest and concern to the stockholders of the converted institution rather than to the mutual members of the converting institution and should not be imposed upon the future stockholders by the mutual members. Therefore, the Board is deleting the current authorization in § 563b.3(d)(11). Converting insured institutions would continue to be required under general disclosure principles to make full disclosure in their proxy statements and offering circulars of any stock option plans that will be proposed to the stockholders following completion of the conversion.

Loan of Funds to Purchase Stock

The Board is adding new § 563b.3(c)(22) to confirm its policy that a converting insured institution is not permitted to knowingly loan funds or otherwise extend any credit to any person for the purpose of purchasing conversion stock.

Subscription Offering

The Board's current regulations permit a converting insured institution to commence its subscription offering and, provided that the subscription offering has commenced, to commence its public offering or direct community offering concurrently with the mailing of the proxy statement to association members. In addition, a converting insured institution may close the subscription offering prior to the meeting of the association members, provided that all offers or sales of conversion stock are conditioned upon the approval of the plan of conversion by the association members. In view of this compressed procedure, which permits converting institutions to have simultaneous subscription and public offerings of the conversion stock, the Board believes that it is no longer necessary for the converting institution to hold a separate subscription offering, provided that appropriate procedures are implemented to ensure that subscribers have the right to acquire conversion stock from the underwriters or selling group on a priority basis. The Board believes that elimination of a separate subscription offering should reduce conversion expenses. The optional subscription procedure will allow a converting institution, if it so desires, to employ the underwriter(s) and selling group for the public offering of any unsubscribed shares to assist in selling shares to members with subscription rights.

Although this option would increase the conversion underwriting commissions and fees since they would be applicable to all shares sold in the conversion, and not just those sold in the public offering phase, it is anticipated that converting institutions will negotiate for substantially lower underwriting commissions and fees for shares sold to members exercising subscription rights compared to those for shares sold to the public, since members are likely to have more loyalty to the institution than unrelated investors, and are more likely to purchase shares of the conversion stock. Accordingly, the Board is adopting new section § 563b.3(d)(12) to provide that, instead of a separate subscription offering, a converting institution may include a provision in its plan of conversion that the conversion shares will be simultaneously offered to subscribers and the public, but that each person entitled to subscription rights will be notified that orders for stock shall first be filled, in the order of priority set forth in § 563b.3, by orders of persons who receive and exercise subscription rights, after which orders for the public will be filled.

In connection with this amendment, the Board is also amending § 563b.7(e) to allow underwriting commissions or discounts with respect to capital stock sold by the underwriters or selling group pursuant to the optional provision of § 563b.3(d)(12). In addition, the Board is amending §§ 563b.3(d) (1), (6), and (7), in order to make them consistent with the intent of the Board when it adopted those provisions on April 28, 1982.

As noted above, § 563b.3(d)(1) permits a converting insured institution to commence the direct community offering or the underwritten public offering concurrently with the mailing to the association members of the proxy statement for the special meeting to consider the plan of conversion. However, the term "concurrently" makes the regulation too restrictive. The Board has no obection to the commencement of the direct community offering, or the underwritten public offering, or both, at any time after the mailing of the proxy statement, and § 563b.3(d)(1) is being amended to clearly permit that procedure. Section 563b.3(d)(1) also is being amended to confirm the permissibility under the current regulations of a direct community offering during a subscription offering or an underwritten public offering. Some converting insured institutions have found it beneficial to offer the conversion stock to current depositors who are not entitled to subscription rights and other members of the public during the subscription offering, and the amendment will make clear that there is no objection to that procedure. Finally, § 563b.3(d) (6) and (7) are being amended to clarify the fact that the written communication provided to voting members and former members entitled to subscription rights to request an offering circular is not required to be actually attached to the proxy statement or notice of conversion but may be mailed separately by the converting insured institution on a date after the mailing of the proxy statement or the notice of conversion.

Restrictions on Stock Repurchases and Dividends

The Board has determined to ease restrictions on stock repurchases and dividends by a converted institution. Current § 563b.3(g)(1) provides that no converted institution shall for a period of ten years repurchase any of its capital stock from any person except in the case of a repurchase, on a *pro rata* basis, pursuant to an offer approved by the Corporation made to all shareholders of the institution, and except for the repurchase of qualifying shares of a director. Similarly, current § 563b.3(g)(3) provides that, without the prior approval of the Corporation, no converted insured institution shall, for a period of ten years after the date of its conversion, declare or pay a cash dividend on, or repurchase any of, its capital stock in an amount in excess of one-half of the greater of the institution's net income or the average of such net income for the current fiscal year and not more than two of the immediately preceding fiscal years.

As a matter of policy and in view of the rapidly changing nature of the thrift business, the Board does not believe it necessary to continue to impose upon converting insured institutions provisions that restrict redemptions or the payment of dividends for such a significant period of time. Therefore, the Board is reducing these restrictions from a ten-year to a three-year period following the date of conversion.

Valuation Requirements

Under the Board's current regulations, a converting institution is required to sell all of its conversion stock at a price equal to the *pro forma* market value of the conversion stock, which is determined on the basis of an independent valuation. Among other things, current § 563b.7(f) requires that extensive detailed pricing materials be prepared by an independent appraiser and filed with the Corporation for its review, often resulting in the preparation and filing of pricing materials with hundreds of pages, most of which provide relatively standard information, and very substantial appraisal fees and expenses.

In light of the experience that the Board has gained as a result of reviewing conversion appraisals, the Board has determined that the current appraisal procedure requires the submission of greater detail and entails greater expense than is required to safeguard the rights of association members and to ensure that the conversion stock will be sold at a price that is fair and equitable to the converting institution and its members. The documentation required under the current appraisal procedure exceeds in detail any documentation generally required or used in the investment banking industry in connection with other initial offerings of stock, which is essentially what a conversion constitutes. In short, the Board believes that it is in a position to review the pricing of future conversions without requiring lengthy and detailed appraisals that in large part merely recount information that is readily available to the Board from internal sources.

Accordingly, the Board is amending § 563b.7(f) to eliminate requirements the Board believes have resulted in appraisals of unnecessary length and detail. As a result of this amendment, the Board expects that future appraisals will be a fraction of their current length and that appraisal fees will be either substantially reduced or, as is the case in other initial public offerings, eliminated since the pricing function in public offerings is generally part of the services provided by the underwriter(s), who is by definition an expert in corporate appraisal, in connection with pricing negotiations with the issuer. Management of a converting insured institution may, of course, continue to retain an appraiser independent of the underwriter(s) if they so desire, but this amendment will permit them to eliminate the substantial expense of a detailed independent appraisal and to rely on the pricing decision reached through negotiations with the underwriter(s) for the institution's public offering, subject to review by the Board. Converting institutions that will not engage an underwriter and will market the unsubscribed shares in a direct community offering will continue to be required to retain for the preparation of the greatly reduced pricing materials an independent appraiser who is experienced and expert in the area of corporate appraisal and acceptable by the Corporation, as required under § 563b.7(f)(1)(i). In addition, it is provided in § 563b.7(f)(3) that the converting institution is required to file any additional pricing material that may be required by the Corporation.

The Board also is amending § 563b.7 (a), (c), and (d), and is making conforming amendments to other regulations, to provide that a converting insured institution is not required to file pricing materials with the Corporation prior to approval of the application, or to provide an estimated subscription price range in the proxy statement, if the institution will not commence its subscription offering before the special meeting of the association members. When an institution does not plan to immediately market its stock, the pricing information in the proxy statement may not bear a significant relationship to the final price established to reflect market reality on the date the stock actually is sold. A converting insured institution which chooses not to secure an appraisal until a decision to market its stock has been made will be required under general disclosure principles to discuss in its proxy statement the methodology that will be used in determining the valuation of the institution.

Holding Company and Merger Conversions

Current § 563b.9 authorizes an insured institution to convert to stock form as part of a transaction in which a holding company is organized to acquire all of the capital stock of the converted institution. Similarly, current § 563b.10 authorizes an insured institution to convert to stock form as part of a transaction in which an existing holding company acquires all of the capital stock of the converted institution or in which the converting institution merges with an existing insured stock institution. However, under the current regulations, applications for approval of these are conversions accepted by the Corporaton on a test-case basis only.

The Board believes that such conversions need no longer be restricted to test cases. Accordingly, the Board is deleting paragraphs (b) and (c) of § 563b.9 and paragraphs (d) and (e) of § 563b.10. In addition, the Board is amending paragraphs (a) of §§ 563b.9 and 563.10 to eliminate provisions that the Board considers to be redundant as a result of the existing requirement that such conversions comply with all provisions of Part 563b, unless clearly inapplicable. Also, the Board is amending § 563b.10(c) to confirm that a merger conversion may be structured as a type of reverse merger, *i.e.*, the merger of a stock institution into a converting mutual institution.

Anti-takeover Provisions

As it did when it adopted the April 28, 1982 amendments to its Conversion Regulations, the Board has reassessed its position regarding the adoption by converted insured institutions of charter provisions that inhibit the acquisition of controlling interests in the stock of those institutions. On the one hand, restrictive stock acquisition or anti-takeover provisions can hamper the free operation of market forces, can lead to reduced investment options and result in

the misallocation of capital resources, can restrict the ability of stockholders to secure the highest return on their investment, and may tend to insulate management from the consequences of inadequate performance. On the other hand, there are legitimate institutional and stock holder concerns that may be advanced by the adoption of such provisions. Moreover, the Board's current practice of prohibiting the adoption of any charter provision regarding the acquisition of the stock of a converted insured institution other than that permitted at § 563b.3(i)(7), which prohibits offers to acquire and acquisitions of over ten percent of the stock of the institution by any person, has the ironic effect of restricting the right of stockholders to propose and adopt lawful governing rules for their institutions. Also, the Board recognizes that anti-takeover provisions rarely deter the determined acquiror, who may almost always depend on stockholders to act in their ultimate economic self-interest.

On balance, the Board believes that it should no longer impose its broad authority in this area. There currently is no federal statutory or regulatory corporate law governing restrictive stock acquisition charter provisions, and the Board does not believe that it necessarily is the best or the only forum for the consideration of the complex public policy and legal issues that, in this particular context, traditionally have been resolved at the state level. The status of the law is very fluid even there, but it is there that decisions which are authoritative will be made.

Therefore, the Board is amending § 563b.3(i)(7) to provide that a converted institution may adopt at any special or annual stockholders meeting any provisions regarding the acquisition of its capital stock that is permitted to be adopted by corporations chartered under the laws of the state in which the principal office of the converted insured institution is located. In addition, the Board is amending the former optional anti-take-over provision for federally-chartered insured institutions at § 552.4(b) to provide that it can be included in a converting institution's charter only so long as it terminates no later than one year after completion of the conversion. Federally-chartered insured institutions which seek to amend their charters to include such provisions shall do so pursuant to the normal charter amendment procedures. The Board expects to require before it approves an application by a federally-chartered insured institution to amend its Charter S to include a restrictive stock acquisition provision the submission by the applicant of an opinion of independent counsel that the charter provision would be lawful under the laws of the state in which its principal office is located.

Miscellaneous, Technical and Conforming Amendments

1. 12 CFR 563b.1 (a) and (c) are revised to reflect that the Board may take action under Part 563b pursuant to its own authority or as the operating head of the Corporation.

2. 12 CFR 563b.3(a) is amended to delete general principles for conversion that are unnecessary to state in view of the Board's detailed regulations governing conversions.

3. 12 CFR 563b.3 (c)(6), (c)(10), and (d)(3) are amended to refer to subscription rights instead of the subscription offering.

4. 12 CFR 563b.3(c)(9) is amended to delete the reference to § 563.8–1(d)(3)(i), which previously had been deleted by the Board from its Insurance Regulations.

5. 12 CFR 563b.3(i)(5)(iii) is amended to provide that the one-year post-conversion prohibition against the offer for or purchase of more than ten percent of the stock of a converted insured institution does not apply to a transaction undertaken pursuant to §§ 563b.9 or 563b.10.

6. 12 CFR 563b.5(b) is amended to provide that the proxy statement must be mailed within ten days after it has been authorized for use by the Corporation, unless an extension is granted in writing by the Corporation. This amendment conforms to a requirement that the Board formerly had imposed as a condition to approval of applications for conversion.

7. 12 CFR 563b.7 (a), (b), (c)(3), (g), (h), (k), and (c)(3) are amended to reflect the fact that it is no longer necessary to hold a separate subscription offering.

8. 12 CFR 563b.7(k) is amended to state that post-effective amendments to subscription offering circulars shall be filed under an amendment to the application for conversion.

9. 12 CFR 563b.8(w)(2) is amended to provide for the delegation of authority to the Board's General Counsel to approve applications for conversions pursuant to §§ 563b.9 and 563b.10.

10. Paragarph (d) of Exhibit 2 of Form AC is deleted to reflect the fact that stock option plans cannot be adopted by the association members in connection with a conversion.

11. Item 7 of Form AC, which requires that an application for conversion set forth the savings account balances of the converting insured institution's management, is deleted since under the amendments adopted by the Board on April 28, 1982, subscription rights are only rarely based on account balances.

12. Exhibit 5 to Form AC is amended to reflect that pricing materials are not required to be filed with the application unless the subscription offering will commence prior to the meeting of association members.

13. Items 8(d), 8(g), and 8(i)(1) of Form PS are amended to reflect the fact that it is no longer necessary to hold a separate subscription offering.

14. Items 8(e) and 8(f) of Form PS are amended to reflect that an appraisal is not required unless the subscription offering is to commence prior to the meeting of association members.

15. Item 8(h)(1) of Form PS is amended to reflect the deletion by the Board on April 28, 1982, of the agreement with the Corporation formerly at § 563b.3(i).

16. Item 12 of Form PS is deleted to reflect the fact that association members cannot adopt a stock option plan in connection with a conversion.

17. Items 2, 5, and 6 of Form OC is amended to reflect the fact that it is no longer necessary to hold a separate subscription offering.

Subpart B—Sale-of-Control Conversions

Since the adoption by the Board in 1974 of the basic structure of the Board's Conversion Regulations, the Board has imposed restrictions on the amount of stock that may be acquired by any one person in connection with a conversion. Current § 563b.3(c) (6)(i) generally limits purchases by any person in the public offering or the direct community offering to an amount of shares not exceeding five percent of the total offering of shares. The same restriction applies to subscribers under § 563b.3(c)(7). Under § 563b.3(d)(5), the plan of conversion may increase this limit to a percentage less than ten percent of the total offering, provided that orders for conversion stock exceeding five percent of the total offering do not exceed in the aggregate ten percent of the total offering. Finally, under paragraph (c)(8) of § 563b.3, the total number of shares which officers and directors of a converting institution and their associates may purchase in the conversion is limited to a percentage which, depending upon the size of the institution, ranges from 25 percent to 35 percent of the total offering.

The effect of these restrictions has been to prevent an insured institution to convert in connection with a transaction in which a person or group of persons acquires control of the institution. The adoption of § 563b.10 has somewhat

eased this restriction, by permitting an insured institution to convert in connection with a transaction in which the institution is acquired by an existing holding company or merged with an existing insured stock institution. However, these provisions limit the potential pool of persons who might make substantial capital investments in converting institutions.

The Board has concluded that, in order (1) to further increase the flexibility of the conversion process, (2) to grant to members of insured mutual institutions rights of corporate governance similar to those of stockholders in a stock corporation, and (3) to substantially increase the potential sources of capital for converting institutions and the capital received by those institutions, it should permit association members, if they so desire, to vote to sell a controlling stock interest in the institution to a third person or persons in connection with a conversion. The Board believes that this option will more fully recognize the equity rights of members of mutual insured institutions, while substantially expanding the potential pool of capital that might be invested in converting institutions by making investment opportunities available to those persons who would make investments only if they could acquire control. The Board believes that this is an especially important objective in view of the substantially increased number and dollar volume of conversions that recently have been and will be competing for public market equity funds. Accordingly, the Board has adopted new Subpart B of its Conversion Regulations to permit a sale-of-control conversion if the conversion is approved by a majority of the outstanding votes of the converting institution and if the sale of control is subjected to a process that is designed to ensure that the institution will receive a significant premium for the sale of that control.

Under the new sale-of-control conversion regulations, any qualified person or persons, including members of management of an insured institution, can make an offer to acquire all or any portion of the stock of the institution upon its conversion for a price equal to the *pro forma* market value of the stock, determined in the manner prescribed for standard conversions under Subpart A, plus a premium to reflect the fair market value of the control represented by such shares. In addition, the sale-of-control conversion regulations subject such an offer to a series of checks and balances that the Board believes will adequately protect the institution and ensure the greatest possible control premium in the event of a sale-of-control conversion.

First, no sale-of-control conversion may be initiated unless an offer has been made to and approved by two-thirds of an insured institution's board of directors. This requirement both protects the institution against inadequate or inappropriate offers and gives the board of directors an opportunity to negotiate for the highest possible control premium. Also, of course, it preserves the absolute right of the board of directors of an insured institution to determine in its sole discretion whether to convert from the mutual to the stock form.

Second, in the event a sale-of-control offer is approved by the board of directors, the institution is required to immediately and widely distribute a press release setting forth the principal terms of the proposed sale-of-control conversion in order to notify any person or persons who might wish to make a competing bid. Thereafter, any and all interested persons may make competing offers to acquire control of the converting institution, provided the offers are approved by the Corporation in the same manner that the original sale-of-control offer had to be approved by the Corporation. Moreover, once a competitive bid has been accepted for filing by the Corporation, management of the converting institution is prohibited from cancelling or otherwise postponing the meeting of associations members originally called to vote on management's proposal. The Board believes that the potential for competing bids will help ensure that offers to acquire control will include appropriately significant control premiums. A sale-of-control conversion should, therefore, increase the amount of equity to be received by the converting institution over the amount that it would have received in a standard conversion.

Third, the sale-of-control conversion regulations contain detailed provisions that are designed to ensure that there is full and fair disclosure to members of the insured institution regarding all material facts relating to each sale-of-control offer and each competing offeror. The sale-of-control conversion regulations also provide a procedure requiring management to distribute competing offers to all members of the converting institution.

Fourth, both the price at which the insured institution's stock is to be sold in the conversion and the control premium must be supported by a fairness opinion that will be approved by the Corporation before approving the application.

Finally, a sale-of-control conversion offer must be approved by a majority of the outstanding votes of the institution after distribution of detailed proxy material to all members of the institution.

The following discussion summarizes in more detail the principal provisions of the Board's new sale-of-control conversion regulations.

Definitions

New § 563b.11 sets forth additional definitions applicable to sale-of-control conversions. Under these definitions, a sale-of-control conversion shall include any conversion of an insured institution from mutual-to-stock form pursuant to a plan of conversion which provides for the acquisition of control of the converting institution by any person. For purposes of new Subpart B, control shall be deemed to exist if any person directly or indirectly, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, ten percent or more of the voting shares of an insured institution, or controls in any manner the election of the majority of the directors of the institution. However, control shall not exist under the Conversion Regulations as the result of the acquisition of shares of the converting insured institution pursuant to a plan of conversion that complies with the provisions of Subpart A. As a result, management acquisition of shares of a converting insured institution within the limitations set forth in Subpart A shall not be deemed to be the acquisition of control under Subpart B.

For purposes of the sale-of-control conversion regulations, a person who acquires control of the converting institution is deemed to be an acquiring person. In addition, any person together with any associate or group of persons acting in concert for the purpose of acquiring shares of capital stock in connection with the conversion shall be deemed to be an acquiring person for purposes of Subpart B.

Principles Applicable to a Sale-of-Control Conversion

New § 563b.12 sets forth the general principles applicable to a sale-of-control conversion. This section provides that an insured institution may convert to stock form pursuant to Part 563b as part of a transaction in which the converting institution enters into a binding agreement with any person pursuant to which that person will acquire control of the converting institution. In connection

with a sale-of-control conversion, eligible account holders, supplemental eligible account holders, and voting members will receive subscription rights to purchase shares of capital stock not required to be sold pursuant to the agreement with the acquiring person. A sale-of-control conversion is required to comply with all the provisions of Subpart B and, unless clearly inapplicable, all of the requirements of Subpart A of Part 563b.

Additional Requirements for Sale-of-Control Plans of Conversions

Under a plan of conversion providing for the sale of control, the converting institution and the acquiring person must enter into a binding agreement providing for the sale to and purchase by the acquiring person of a specified percentage of the conversion stock (including any percentage from ten percent to one hundred percent) or a specified dollar amount of the conversion stock. If the plan of conversion provides for the sale of a specified percentage of the conversion stock to the acquiring person, the acquiring person shall be obligated to purchase that percentage of the conversion stock at the public offering price, plus a control premium to represent the fair market value of the control being sold. If the plan of conversion provides for the acquisition of a specified dollar amount of the conversion stock, the acquiring person shall be obligated to acquire that amount at the public offering price, plus a specified control premium. The control premium shall be stated as a percentage of the *pro forma* market value of the converting insured institution's capital stock in the absence of sale of control.

In order to permit a converting institution and an acquiring person to enter into a binding agreement with respect to the sale of control, the plan of conversion shall be required to provide that subscription rights, if any, of eligible account holders, supplemental eligible account holders, and voting members shall be subordinated to the rights of the acquiring person to acquire capital stock of the converting institution.

Because of the possibility that the market for the public shares of an insured institution converting in a sale-of-control conversion will be limited, the Board has determined that the sale of the public shares may be made through an underwriter or directly to the community, or in any other manner, subject to the applicant demonstrating the feasibility of the method of sale. In connection with the offering of the public shares, the Board will not impose a condition requiring orders to be filled up to a maximum of two percent of the conversion stock and thereafter on an equal-number-of-shares basis per order or a condition requiring the stock to be offered and sold in a manner that will achieve the widest distribution of the stock. The Board has determined that such conditions would serve little or no purpose in connection with a sale-of-control conversion.

The Board further considers it appropriate to impose restrictions on the purchase of the capital stock of the converted institution by the acquiring person for a period of three years following the conversion. This restriction will prevent an acquiring person from acquiring more than one percent of the outstanding capital stock of the converted institution in any three-month period during such three-year period, except with the prior written approval of the Corporation. This restriction is designed to ensure the integrity of the conversion process and prevent the acquiring person from acquiring additional shares without paying the control premium.

Finally, a sale-of-control plan of conversion is required to provide that no acquiring person shall receive, or be entitled to, subscription rights in connection with the conversion, and no acquiring person shall be permitted to purchase any shares in connection with the conversion other than the shares required to be issued to the acquiring person pursuant to the plan of the conversion. These restrictions are also intended to prevent the acquiring person from acquiring shares of conversion stock without paying the control premium.

Additional Notice Requirements

New § 563b.14 sets forth additional notice requirements for a sale-of-control conversion. Under these provisions, the notice required to be given to the members of a converting institution pursuant to § 563b.4(a) (3) and (4) is required to include information intended to fully apprise the members of certain basic facts with respect to the sale-of-control conversion. These include (1) the name of the acquiring person; (2) a brief description of the business of the acquiring person; (3) a brief description of the terms and conditions of the sale-of-control conversions; (4) a statement that, pursuant to the Board's regulations, and as an alternative to the sale-of-control conversion, the converting institution could seek approval to convert to stock form in a manner that would prohibit the sale of control to any person; and (5) a statement with respect to the obligations of the converting institution to mail proxy statements and proxies or other communications on behalf of any person(s) who may propose a competing offer to acquire control. In addition, the notice will be required to include a statement that the proposed sale-of-control plan of conversion must be approved by at least a majority of the votes eligible to be cast either in person or by proxy by association members at a meeting at which the plan will be submitted for their approval.

Simultaneously with the publication of the notice, the converting insured institution is required to widely disseminate a press release concerning the proposed sale-of-control conversion. The press release must be issued on an "immediately release" or "not held" basis to the principal news source of the financial community and to a newspaper having general circulation in each community in which an office of the insured institution is located. This requirement is intended to ensure that the availability of control of the converting insured institution is made known to persons who might wish to make a competing bid for control of the institution.

Record Date and Notice Requirements in Connection with Sale-of-Control Conversions

Because the Board contemplates that sale-of-control conversions will be subject to competitive bidding, it has been necessary to adopt special record date and notice requirements for the meeting of members called for the purpose of obtaining approval of a sale-of-control conversion. In the event a competing bid is made for a converting institution, the meeting date of members to consider the competing bids is automatically set on a date 70 days from the date notice of the meeting to consider management's sale-of-control plan of conversion is first sent or given to members. Because of this requirement, the Board has adopted new § 563b.15(a) to provide that the record date for determining those persons eligible to vote at any meeting called to consider a sale-of-control plan of conversion shall be not more than 85 days nor less than 70 days prior to the date of such meeting. For the same reason, paragraph (b) of § 563b.15 provides that notice of such meeting shall be given not more than 70 days nor less than 45 days prior to the date of the meeting of each member of the converting insured institution entitled to vote at the meetings.

Sale-of-Control Bids

The Board's sale-of-control conversion regulations contemplate that all sales of control of converting insured institutions will be subject to competitive bidding. Accordingly, new § 563b.16 provides that any person (defined therein as a "proponent") may present a sale-of-control plan of conversion to a vote of the members at any meeting of members of the converting institution called by management of the institution to vote upon any other sale-of-control plan of conversion. Adoption by the members of a sale-of-control plan of conversion will constitute a binding agreement providing for the sale to and purchase by the proponent of a specified percentage of the conversion stock or a specified dollar amount of conversion stock.

Paragraphs (b) and (c) of § 563b.16 set forth the approval and procedural requirements for sale-of-control plans of conversion of proponents, and provide, among other things, that (1) no sale-of-control application for conversion of the proponent shall be accepted for filing by the Corporation unless such application is filed within 20 days of the date that the proxy statement of management of the converting institution is first sent or given to members; (2) a proponent may omit from its application for conversion or proxy statement any information contained in any other application for conversion filed with the Corporation or any other proxy statement which has been or will be furnished to members in connection with the meeting of members to approve the plan of conversion if a reference is made to the particular document containing such information; and (3) on the date a proponent files its application for conversion with the Corporation, the proponent shall hand-deliver a copy of such application to the converting institution at its home office and to any other offeror or proponent.

Paragraph (d) of § 563b.16 implements the requirement that the acceptance for filing by the Corporation of an application for a sale-of-control conversion of any proponent shall automatically extend the date for the holding of the meeting of members called to approve the plan of conversion approved by management of the converting institution to a date 70 days following the date on which notice of such meeting was first given.

New § 563b.17 sets forth the requirements for the inclusion in management's proxy statement of a brief summary of all competing proposals and the mailing by the coverting institution of proxy statements regarding all competing proposals to members of the institution. Paragraph (a) requires management to include a proponent's sale-of-control plan of conversion in its form of proxy if the proponent submits its proposal to the converting institution within 20 days of the date on which the institution's press release concerning management's proposed sale-of-control conversion is first released to the public under § 563b.14(c), provided that prior thereto, the proponent has filed with the Corporation a plan of conversion, a preliminary proxy statement, and a preliminary form of proxy.

The converting insured institution is not required to submit a competing sale-of-control proposal to the vote of the members at the meeting called to consider the plan of conversion unless the proponent or its representative presents the proposal at the meeting and the proponent's plan of conversion has been approved by the Corporation.

Additional Disclosure Requirements

Under new § 563b.16, any proxy solicitation material and any offering circular shall be required to contain certain information which the Board considers to be material to the voting and investment decisions of the converting institution's members. This information is similar to the information required with respect to tender offers for the shares of publicly-held corporations, including: (1) information with respect to the identity and background of the acquiring person; (2) information with respect to past contacts, transactions, or negotiations between the acquiring person and the converting insured institution; (3) information with respect to the source and amount of funds or other consideration to be used by the acquiring person to purchase stock of the converting institution; (4) information with respect to the purpose of the acquisition of control and the plans or proposals of the acquiring person with respect to the converting insured institution; (5) information with respect to the effect of a sale-of-control conversion; (6) information with respect to persons retained, employed or to be compensated by the acquiring person to make solicitations or recommendations in connection with the conversion; (7) certain financial information with respect to the acquiring person; and (8) any other information which is material to a member's decision whether to acquire shares of stock in the conversion or to approve the sale-of-control conversion.

Additional Requirements of Sale-of-Control Applications

Under new § 563b.17, an application for conversion in connection with a sale-of-control conversion shall be required to include certain additional information and documents as exhibits to the Form AC. Most significantly, the applicant is required to submit to the Corporation: (1) a fairness opinion signed by persons independent of the converting insured institution and the acquiring person, experienced and expert in the area of corporate appraisal and acceptable to the Corporation, to the effect that the terms and conditions of the proposed conversion are fair and equitable to the converting institution and to its members; (2) any filings which are required in connection with the sale of control under the Change-in-Control Act or the Savings and Loan Holding Company Act; and (3) information with respect to any competing offers received by the converting insured institution within one year of the filing of the application for conversion which were rejected by the management or the board of directors of the converting institution. The Board believes that in view of the risks presented by sale-of-control conversions, it is essential that the fairness of the transaction be passed upon by experts who are independent of the institution and the acquiring person. In addition, the Board believes that the application for a sale-of-control conversion must be reviewed by the converting insured institution's members in light of all other competing proposals that the institution has received and rejected.

In addition to the foregoing documents, an applicant for approval of a sale-of-control conversion shall be required to file with the Corporation (1) any stock purchase agreement between the converting institution and the acquiring person; (2) any loan agreement under which the acquiring person will fund the purchase of shares of conversion stock; and (3) any document setting forth the terms of any contracts, arrangements, understandings, or relationships between the acquiring person and the converting insured institution.

Subpart C—Voluntary Supervisory Stock Conversions

Pursuant to the authority granted it under Section 5(i) of the Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. 1464(i), and Section 402(j) of the National Housing Act ("NHA"), 12 U.S.C. 1725(j), and consistent with applicable constitutional provisions, the

Board has the power to authorize in certain circumstances the supervisory mutual-to-stock conversion of an insured mutual institution. A supervisory conversion is one in which the association members have no right of approval or participation, and upon completion of which the association members have no continuing legal or beneficial ownership interest in the converted insured institution. The Board's power under Section 5(i) of the HOLA and Section 402(j) of the NHA arises when, at a minimum (1) as to a federally-chartered mutual insured institution, the Board has the power to appoint a receiver for the purpose of liquidation, or, as to a state-chartered mutual insured institution, when the conversion is authorized under state law and the Board would have the power to appoint a receiver for the purpose of liquidation were the institution federally chartered, and (2) upon such liquidation there would be no equity value realizable to the association members.

Section 121 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1493 (October 15, 1982), which amends section 5 of the HOLA by adding paragraph (p), to be codified as 12 U.S.C. 1464(p), affirms the Board's inherent power to authorize supervisory conversions to facilitate the rehabilitation of insured institutions by empowering the Board for a three-year period after enactment of new section 5(p) to preempt federal law and state law and state constitutional provisions to authorize, and in the case of a federally-chartered insured institution to order, the conversion of an insured institution if (1) the institution is in receivership, or (2) the Corporation has contracted to provide assistance to the institution, or (3) the Board has determined that severe financial conditions exist which threaten the stability of the institution and that the conversion is likely to improve the financial condition of the institution.

The Board has approved numerous supervisory conversions (most of which involved the merger of mutual insured institutions into existing stock insured institutions) under its section 5(i) and section 402(j) powers. New section 5(p) of the HOLA increases the Board's authority since action by the Board preempts otherwise applicable state and federal law. In addition, section 5(p) significantly expands the range of the Board's supervisory authority in regard to conversions because the criteria for authorizing a section 5(p) conversion in a supervisory context are much less restrictive than those set forth in the first paragraph above in the discussion of new Subpart C. However, the Board has determined at this time to limit voluntary supervisory conversions under Subpart C to insured institutions that meet the criteria established by the Board for supervisory conversions under sections 5(i) and 402(j), as well as the criteria of section 5(p). When an insured institution does not meet the former criteria, but does meet the latter criteria, it may be qualified for a modified conversion, which is set forth in new Subpart D of Part 563b,or a conversion under § 563b.1.

New Subpart C governs voluntary supervisory stock conversions only, *i.e.*, supervisory conversions which are authorized or ordered by the Board pursuant to a plan of conversion adopted by a majority of the board of directors of the converting insured institution, and which involves the issuance of stock to a third person or persons. The Board will continue to exercise its power to authorize and order non-voluntary supervisory merger conversions and stock conversions on a case-by-case basis.

Qualification for Supervisory Conversion

Under § 563b.23, the Board may authorize, and in the case of a federally-chartered insured institution may order, the supervisory conversion of an insured institution when (1) as to a federally-chartered insured institution, the Board has the power to appoint a receiver for the purpose of liquidation, or, as to a state-chartered insured institution, the Board would have the power to appoint a receiver for the purpose of liquidation were the institution federally-chartered; (2) upon liquidation there would be no equity value realizable by the mutual accountholders; (3) the criteria of section 5(p) of the HOLA are met; and (4) the insured institution would be a viable entity following the supervisory conversion. For the purpose of Subpart C only, an insured institution may be found to be a viable entity following a supervisory stock conversion if the Board determines that its post-conversion net worth (1) would meet regulatory net-worth requirements, and (2) would be reasonably sufficient to cover projected operating losses for a period of not fewer than three years after the date of completion of the supervisory conversion without application of appraised equity capital or net worth certificates.

While the existence of any of the grounds set forth in section 5(d)(6)(A) of the HOLA for the appointment by the Board of a receiver for the purpose of liquidation will satisfy the first qualification standard of § 563b.23, a Board finding of insolvency also would satisfy the first requirement of section 5(p) that severe financial conditions exist which threaten the stability of the institution. The requirement established in § 563b.23(d) that the converted institution be a viable entity following conversion would satisfy the second requirement of section 5(p) that the supervisory conversion would be likely to improve the financial condition of the institution.

Procedure

Section 563b.28(a) provides that an insured institution which seeks approval of a supervisory stock conversion shall file an original and two copies of its supervisory conversion application with the Principal Supervisory Agent ("PSA") of the appropriate Federal Home Loan Bank and one copy with the Board's Office of Examinations and Supervision in Washington, D.C. The PSA or his designee shall conclude whether or not the insured institution meets the qualification standards established in § 563b.23, and the Director of OES or his designee must concur in the conclusions of the PSA.

Section 563b.27 sets forth the minimum filing requirements for a complete supervisory conversion application. Section 563b.28(b) provides that a supervisory stock conversion application that does not meet the filing requirements shall constitute an incomplete application, and requires the PSA to continue to seek another appropriate supervisory resolution of the institution's problems pending the filing of a complete application. These requirements are intended to discourage the filing of incomplete supervisory stock conversion applications by insured institutions for the sole purpose of forestalling supervisory action.

Conditions of Approval and Other Requirements

Under § 563b.27, Board approval of a supervisory stock conversion application will be conditioned upon the completion of the sale of conversion stock within a maximum period of three months after Board approval of the application, or within such additional period as the Board's General Counsel or his designee may for good cause grant; compliance with all requirements of proposed 12 CFR Part 563g, which was issued by the Board for public comment on March 3, 1983, Bd. Res. 83-126 (48 FR 10684; March 14, 1983) or such final regulatory requirements on that subject as may be adopted by the Board; submission of an opinion of independent legal counsel that all applicable state

securities law requirements have been met in connection with the sale of the insured institution's conversion stock; compliance with all applicable laws, rules, and regulations; and satisfaction of any other requirement or condition the Board may impose. Pursuant to § 563b.31, a converted insured institution shall be subject to the dividend and repurchase restrictions of § 563b.3(g)(2)(ii) and (3). Moreover, § 563b.25, requires that the offer and sale of the conversion stock constitute a non-public offering under § 563g.4 of proposed Part 563g.

Treatment of Appraised Equity Capital

Section 563.13 of this Subchapter permits, but does not require, an insured institution to include appraised equity capital as part of its net worth. A decision by an insured institution's board of directors regarding whether to adopt appraised equity capital under § 563.13 is a business judgment that, absent a showing of bad faith, ordinarily will not be questioned by the Board. Accordingly, § 563b.32, provides that the PSA is not required to include appraised equity capital in an insured institution's reserve calculations for the purpose of determining whether the institution qualifies for a supervisory stock conversion if the institution has not itself done so pursuant to § 563.13(c), and provided that the institution's board of directors has adopted and filed a resolution determining not to include appraised equity capital in regulatory net worth.

Treatment of Net Worth Certificates

Section 563b.33 establishes the treatment of net worth certificates ("NWCs") by the PSA in determining whether an insured institution qualifies for a supervisory stock conversion. Section 563b.33 provides that the PSA shall not include NWCs in the institution's regulatory net worth other than outstanding NWCs issued in accordance with Part 572 of this Subchapter or NWCs which the Corporation is committed to purchase from the institution under § 572.1(c) of this Subchapter.

Discretion of the Board

There is no inherent right to a supervisory conversion. An insured institution that meets the criteria for a supervisory conversion is a failed institution, and the Board has the responsibility of taking action with respect to the institution that it determines is in the best interests of the institution, its depositors, the public, and the Corporation. Therefore, it is specifically stated in § 563b.20 that the determination to authorize or order a supervisory conversion shall be in the sole discretion of the Board.

Subpart D—Guidelines for Modified Conversions

As explained above in the discussion of subpart C, section 5(p) of the HOLA authorizes the Board for a period of three years after October 15, 1982, to authorize a state-chartered insured institution and to order a federally-chartered insured institution to convert to the stock form when (1) the insured institution is in receivership; (2) the Corporation has contracted to provide assistance to the insured institution under section 406 of the NHA; or (3) the Board has determined that severe financial conditions exist which threaten the stability of the insured institution and conversion to stock form is likely to improve the financial condition of the institution.

Also as noted above under Subpart C, the Board does not at this time view section 5(p) as an expansion of the authority of the Board to approve supervisory conversions, *i.e.*, conversions undertaken without the consent or participation of the mutual members, except insofar as section 5(p) preempts all provisions of federal law, and the laws and constitution of any state. It is the Board's current position that, at a minimum, section 5(p) also confirms the Board's implicit power under section 5(i) of the HOLA and section 402(j) of the NHA to authorize the elimination and restriction of many of the procedural and substantive rights granted to mutual members under the Board's standard conversion regulations. The power arises when the financial condition of the insured institution is so adverse that it cannot reasonably be expected to be able to convert under the standard conversion regulations. Section 5(p) also expands the Board's implicit power by permitting it to order a federally-chartered insured institution to convert to the stock form on a non-voluntary basis.

In partial implementation of its section 5(p) authority, the Board is adopting under new Subpart D of Part 563b certain guidelines as to qualification for a modified conversion, and certain guidelines that reflect the current views of the Board on the extent to which the procedural and substantive rights of mutual members may be eliminated or restricted in such a conversion.

The Board is not at this time adopting detailed regulations on either the procedures to effectuate modified conversions or the permissible structure of these conversions. The Board's very substantial experience with standard conversions has enabled it to adopt extensive regulations on sale-of-control conversions, and the regulations adopted by the Board for supervisory conversions are the result of an eighteen-month effort on behalf of the Board and its staff to develop supervisory conversion procedures to expedite the supervisory conversion process. Neither the Board nor the savings and loan industry has had experience with section 5(p) conversions, and the development of extensive regulations at this time would only have the effect of discouraging the filing of innovative proposals that the Board may find acceptable. Therefore, what is set forth in Subpart D are guidelines which are being adopted to alert insured institutions and possible acquirers of the availability of modified conversion transactions.

Guidelines for Qualification

An insured institution that is in receivership, which is one of the criteria of section 5(p), qualifies for a supervisory conversion under Subpart C or a supervisory conversion under § 563b.1 rather than a modified conversion under Subpart D. An institution presumptively qualifies for a modified conversion under the guidelines if it has contracted to receive assistance from the Corporation, which is another of the section 5(p) criteria. As to the final section 5(p) criterion, the guidelines indicate that severe financial conditions may exist which threaten the stability of an insured institution for purposes of Subpart D when (1) the institution does not meet its regulatory net-worth requirement; (2) it has had negative net income under generally accepted accounting principles for (i) its last three fiscal quarters if it has more than two percent net worth, (ii) two out of the last three fiscal quarters if it has more than one percent net worth, and (iii) one out of the last three fiscal quarters if it has less than one percent net worth; and (3) it is demonstrated to the satisfaction of the Board (i) that the amount of capital that would be raised by the insured institution in a standard Subpart A conversion would not be sufficient (A) to enable the institution to meet its net-worth requirement, or (B) to reasonably ensure the financial safety and soundness of the insured institution or (ii) that there would not be a reasonable likelihood that the institution could successfully market its stock in a standard conversion.

Elimination and Restriction of Rights of Mutual Members Established in Subpart A

Because section 5(p) specifically gives the Board the power to authorize or order the conversion of an insured institution when the section 5(p) criteria have been met, it is the opinion of the Board that Congress clearly intended that a section 5(p) conversion could be effectuated without a vote of the mutual members. Therefore, in its guidelines the Board provides that an insured institution converting under 5(p) is not required to seek the approval of the institution's members.

The Board retains in its guidelines for Subpart D conversions the requirement that the converting insured institution establish a liquidation account for the benefit of the institution's members pursuant to § 563b.3(f) of this Subpart A.

A section 5(p) conversion may be authorized or ordered by the Board only if the conversion would be likely to improve the financial condition of the converting insured institution. The Board states in its guidelines that an insured institution which seeks to undertake a modified conversion should be prepared to submit to the Board a detailed analysis prepared by an independent investment banking firm or other qualified person that the net capital infusion resulting from the proposed modified conversion would (1) bring the converted institution into net-worth compliance, on the basis of generally accepted accounting principles, and (2) would be reasonably sufficient to ensure the financial safety and soundness of the institution.

Implicit in this guideline is the Board's view that it is not necessary for an insured institution in a modified conversion to offer and sell its stock for its appraised valuation, and, indeed, the Board expects that an insured institution which converts under Subpart D would raise substantially more capital than its appraised valuation. An appraisal will still be required, however, for disclosure purposes in connection with the offer and sale of the conversion stock.

The most difficult issue faced by the Board in the modified conversion area is whether to eliminate or restrict the preemptive right of association members to subscribe for all of the stock of a converting insured institution, as established in the standard conversion regulations of Subpart A. Of course, association members may approve a limitation of or even the elimination of their preemption rights in a sale-of-control conversion under Subpart B. However, unlike a sale-of-control conversion, it is not contemplated in the modified conversion guidelines that association members will be given the opportunity to approve the modified conversion proposal.

The Board at this time has resolved the issue in its guidelines in the following manner. If the converting insured institution proposes to sell its conversion stock to the public, without a sale of control of the institution as defined in Subpart B, the conversion would be subject to all of the provisions of Subpart A, unless they were clearly inapplicable. This guideline would require recognition of the preemptive subscription rights of the association members, and the purchase limitations of Subpart A would be applicable. The Board does not expect, however, because of the grave risks to an insured institution of a failure to complete a conversion, that any institution will seek to undertake a modified conversion through a non-control sale of conversion stock to the public.

Rather than resembling a standard conversion without an appraised valuation, the Board expects that a modified conversion would resemble sale-of-control conversions without competitive bidding. However, because the association members would not be given the opportunity to approve a sale of control of the insured institution, the Board has determined to state in the guidelines that association members shall be given the opportunity to exercise the preemptive right to subscribe for all of the conversion stock prior to the purchase by the proposed controlling person of unsubscribed shares, and to require that the proposed controlling person pay an appropriate control premium for unsubscribed shares.

What the Board contemplates is likely to result under its modified conversion guidelines are what may be termed take-out conversions, where an acquiring person is contractually bound to a converting insured institution to purchase up to one hundred percent of the conversion stock for an established price per share, plus a control premium per share, and any lesser percentage of the conversion stock remaining after the exercise of subscription rights by the association members. Such a take-out commitment could be subject to there being a minimum percentage of stock remaining after the exercise of subscription rights which would be negotiated between the proposed acquiror and the converting insured institution. Such a modified conversion would be subject to all of the provisions of Subparts A and B unless clearly inapplicable.

The Board is aware, of course, that its modified conversion guidelines hardly provide the type of standardized substantive and procedural guidance that makes the ability to market stock the sole issue in standard conversions. The Board also is aware that there are undoubtedly a number of ways to structure modified conversions that the Board has not considered simply because it has not been presented with those alternative proposals. For that reason, the Board will permit Subpart D conversions on a test-case basis; it specifically solicits comments regarding its guidelines, and encourages the filing of proposals for modified conversions.

Delegation

As the Board had provided when it first adopted amendments permitting holding company and merger conversions under its standard conversion regulations, the modified conversion guidelines provide that no application for a modified conversion shall be filed without the prior written consent of the Board, and the Board has delegated to the General Counsel or his designee the authority to grant that consent.

Solicitation of Comments

The Board has determined that the notice and public comment procedure of 5 U.S.C. 552(d) and 12 CFR 508.11, and the 30-day delayed effective date imposed by 5 U.S.C. 552(d) and 12 CFR 508.14 are unnecessary and not in the public interest. The amendments adopted by the Board significantly ease current restrictions, provide increased flexibility to converting insured institutions and their members, enable converting insured institutions to reduce substantially the time and expense of conversion, and implement the Board's supervisory and modified conversion authority. Because of these factors, the Board finds that it is in the public interest for insured institutions which intend to convert to the stock form of organization to be permitted to take immediate advantage of the revised regulations. The Board also finds that it would be impracticable and contrary to the public interest to delay final action or the effective date of these regulations because of the possible market disruption which would ensue to institutions currently considering conversion and to investors and the financial community involved in that process. However, the Board solicits comments on its Conversion Regulations both as to the amendments adopted here and as to any other current provision or provisions of the Conversion

Regulations. Comments will be accepted for a 60-day period following the effective date of the amendments.

Regulatory Flexibility Act Certification

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the Board certifies that the amendments will not have a significant impact on a substantial number of small entities.

List of Subjects in 12 CFR Parts 552 and 563b

Stock associations, Conversions from mutual to stock form.

Accordingly, the Board hereby amends Part 552, Subchapter C, and Part 563b, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 552—STOCK ASSOCIATIONS

§ 552.4 [Amended.]

1. Amend § 552.4 by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

2. Amend § 563b.1 by revising paragraphs (a) and (c)(1), as follows:

§ 563b.1 Scope of part.

(a) *General.* Except as the Board, acting pursuant to its authority or as the operating head of the Corporation, may otherwise determine, the provisions of this part shall exclusively govern the conversion of mutual insured institutions to capital stock institutions, and no mutual insured institution shall convert to the capital stock form without the prior written consent of the Board. The Board may grant a waiver in writing from any requirement of this part for good cause shown.

* * * * *

(c) *Conflicts with State law.* (1) In the event an applicant finds that compliance with any provision of this part would be in conflict with applicable State law, the applicant may file a written request for waiver of compliance with such provision by the Board, acting pursuant to its authority or as the operating head of the Corporation. Such request may be incorporated in the application for conversion; otherwise, the applicant shall file four copies of such request.

* * * * *

3. Add a heading for new Subpart A following § 563b.2, as follows:

Subpart A—Standard Conversions

4. Amend § 563b.3 by: revising paragraphs (a), (c)(6), (c)(9), (c)(10), (d)(1), (d)(3), (d)(6), (d)(7), (g)(1), (g)(3), and (i)(7), removing paragraph (d)(11), redesignating paragraph (d)(12) as (d)(11), and by adding new paragraphs (c)(22) and (d)(12), as follows:

§ 563b.3 General principles for conversions.

(a) *Applicability of Subpart.* The provisions of this Subpart shall govern conversions undertaken pursuant to any other Subpart of this Part unless clearly inapplicable.

* * * * *

(c) *Required provisions in plan of conversion.* * * *

(6) Provide that any shares of the converting insured institution not sold to persons with subscription rights shall be sold either in a public offering through an underwriter or directly by the converting insured institution in a direct community offering, subject to the applicant demonstrating to the Corporation the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. Such conditions shall include, but not be limited to:

* * * * *

(9) Provide that no officer, director, or their associates shall purchase, without the prior written approval of the Corporation, the capital stock of the converted insured institution except from a broker or dealer registered with the Securities and Exchange Commission, for a period of three years following the conversion. This paragraph (c)(9) shall not apply to negotiated transactions involving more than one percent of the outstanding capital stock of the converted insured institution.

(10) Provide that the sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determined in accordance with § 563b.7 of this Part; and specify the underwriting and/or other marketing arrangements to be made to ensure the sale of all shares not sold to persons with subscription rights.

* * * * *

(22) That the converting insured institution shall not loan funds or otherwise extend credit to any person to purchase the capital stock of the institution.

(d) *Optional provisions in plan of conversion.* * * *

(1) That the converting insured institution may commence the direct community offering or the public offering, or both, concurrently with or at any time during the subscription offering. The subscription offering may be commenced concurrently with or at any time after the mailing to association members pursuant to § 563b.6(c) of this Part of the proxy statement authorized for use by the Corporation. The subscription offering may be closed before the meeting of the association members held to vote on the plan of conversion, provided that the offer and sale of the capital stock shall be conditioned upon the approval of the plan of conversion by the association members as provided in § 563b.6.

* * * * *

(3) That the directors, officers and employees of the converting insured institution shall receive, without payment, nontransferable subscription rights to purchase shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders, supplemental eligible account holders, and voting members provided for under paragraphs (c) (2), (4) and (5) of this section, subject to the following conditions:

* * * * *

(6) That the converting insured institution may require association members to return by a reasonable date certain a postage-paid written communication provided by the converting insured institution requesting receipt of a subscription offering circular, or a preliminary or final offering circular in an offering pursuant to paragraph (d)(12) of this section, in order to be entitled to receive an offering circular from the converting insured institution: *Provided,* that the subscription offering or the offering pursuant to paragraph (d)(12) shall not be closed until the expiration of thirty days after the mailing by the converting insured institution to association members of the postage-paid written communication. If the subscription offering or the offering pursuant to paragraph (d)(12) is not commenced within 45 days after the meeting of association members, the converting insured institution that has adopted this optional provision shall transmit no more than 30 days prior to the commencement of the subscription offering or the offering pursuant to paragraph (d)(12) to each association member who had been furnished with proxy soliciting materials, written notice of the commencement of the offering,

which notice shall state that the converting insured institution is not required to furnish an offering circular to an association member unless the association member returns by a reasonable date certain the postage-paid written communication provided by the converting insured institution requesting receipt of an offering circular.

(7) That the converting insured institution may require eligible account holders and supplemental eligible account holders who are not voting members pursuant to § 563b.6(d) of this Part to return by a reasonable date certain a postage-paid written communication provided by the converting insured institution requesting the receipt of a subscription offering circular, or a preliminary or final offering circular in an offering pursuant to paragraph (d)(12) of this section, in order to be entitled to receive an offering circular from the converting insured institution: *Provided*, that the subscription offering or the offering pursuant to paragraph (d)(12) shall not be closed until the expiration of thirty days after the mailing by the converting insured institution to the non-voting eligible account holders and supplemental eligible account holders of the postage-paid written communication. If the subscription offering or the offering pursuant to paragraph (d)(12) is not commenced within 45 days after the meeting of association members, the converting insured institution that has adopted this optional provision shall transmit no more than 30 days prior to the commencement of the subscription offering or the offering pursuant to paragraph (d)(12) to each eligible account holder and supplemental account holder who had been furnished with a notice pursuant to paragraph (d)(12) written notice of the commencement of the offering, which notice shall state that the converting insured institution is not required to furnish an offering circular to a non-voting eligible account holder or supplemental eligible account holder unless the eligible account holder or supplemental eligible account holder returns by a reasonable date certain the postage-paid written communication provided by the converting insured institution requesting receipt of an offering circular.

* * * * *

(12) That, instead of a separate subscription offering, all subscription rights issued in connection with the conversion shall be exercisable by delivery of properly completed and executed order forms to the underwriters or selling group for the public offering or pursuant to any other procedure, subject to the applicant demonstrating to the Corporation the feasibility of the method of exercising such rights and to such conditions as shall be provided in the plan of conversion. Such conditions shall include, but not be limited to, a condition requiring that orders for stock in the public offering or direct community offering shall first be filled, in the order of priority set forth in this section, by orders of persons exercising subscription rights.

* * * * *

(g) *Restrictions on repurchase of stock and payment of dividends.* * * *

(1) No converted insured institution shall for a period of three years repurchase any of its capital stock from any person except in the case of a repurchase, on a *pro rata* basis pursuant to an offer approved by the Corporation, made to all shareholders of such institution and except for the repurchase of qualifying shares of a director.

* * * * *

(3) Without the prior approval of the Corporation, no converted insured institution shall, for a period of three years after the date of its conversion, declare or pay a cash dividend on, or repurchase any of, its capital stock in an amount in excess of one half of the greater of:

* * * * *

(i) *Acquisition of the securities of converting and converted insured institutions.*

* * * * *

(7) *Optional charter provision.* To the extent permitted by applicable Federal or State law, the plan of conversion may provide for the charter of the converted insured institution to state that, for a period of one year following the date of the completion of the conversion, no person shall directly or indirectly offer to acquire or acquire the beneficial ownership of more than ten percent of any class of an equity security of the converted insured institution. At any annual or special meeting of its shareholders, a converted insured institution may adopt any charter provision regarding the acquisition by any person or persons of its equity securities that would be permitted to be adopted by a corporation chartered by the state in which the principal office of the converted insured institution is located: *Provided*, that the institution shall file as part of its charter amendment filing an opinion of counsel independent from the institution that such charter provision is permissible under the law of the applicable state.

* * * * *

5. Amend § 563b.5 by revising paragraph (b), as follows:

§ 563b.5 Solicitation of proxies; proxy statement.

* * * * *

(b) *Use of proxy soliciting material to be authorized.* No proxy soliciting material required to be filed with the Corporation prior to use shall be furnished to association members or otherwise released for distribution until the use of such material has been authorized in writing by the Corporation. Proxy material authorized for use by the Corporation shall be mailed to the association members within ten days of such authorization unless extended by the Corporation in writing.

* * * * *

6. Amend § 563b.7 by revising paragraphs (a) through (f), (g)(1), (g)(2), (g)(4) (i), (vi), (viii), and (ix), (g)(5), (h), (j), (k)(2), (k)(4), and (k)(5), as follows:

§ 563b.7 Pricing and sale of securities.

(a) *General.* No offer to sell securities of an applicant pursuant to a plan of conversion may be made prior to approval by the Corporation of the application for conversion and until the proxy statement has been authorized for use by the Corporation. No sale of securities may be made except by means of a final offering circular which has been declared effective by the Corporation. The provisions of this paragraph shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

(b) *Distribution of offering materials.* Any preliminary offering circular which has been filed with the Corporation may be distributed in connection with the offering at the same time as or after the proxy statement is mailed to association members pursuant to § 563b.6(c) of this Part. No final offering circular shall be distributed until it has been declared effective by the Corporation. The declaration of effectiveness of the final offering circular by the Corporation shall not extend beyond the maximum time period specified for the completion of the sale of all the capital stock in paragraph (i) of this section, or beyond such period of time as the Corporation shall establish upon a subsequent declaration of effectiveness in the event of the granting of an extension of time under paragraph (k) of this section.

(c) *Estimated price information.* If the offering is to commence prior to the meeting of the association members held to vote on the plan of conversion, the proxy statement authorized for use by the Corporation shall set forth the estimated price range. Any preliminary offering circular shall set forth the estimated price range. The maximum of such price range should normally be no more than 15 percent above the average of the mimimum and maximum of such price range and the minimum should normally be no more than 15 percent below such average. The maximum price used in the price range should normally be no more than $50 per share and the minimum no less than $5 per share.

(d) *Prohibited representations.* The Corporation will review the price information required under this section in determining whether to give approval to applications for conversion when the offering is to commence prior to the meeting of association members, and it will review the information in determining whether to declare a final offering circular effective. No representations may be made in any manner that such price information has been approved by the Corporation or that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapprovd by the Federal Home Loan Bank Board or the Corporation or that the Board or the Corporation has passed upon the accuracy or adequacy of any offering circular covering such shares.

(e) *Underwriting expenses.* Underwriting commissions shall not exceed an amount or percentage per share acceptable to the Corporation. No underwriting commission shall be allowed or paid with respect to shares of capital stock sold in the subscription offering unless the plan of conversion contains the optional provision permitted by § 563b.3(d)(12) of this Part; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering where the public offering is so small that reasonable underwriting commissions thereon would not be sufficient to cover total accountable expenses. The term "underwriting commissions" includes underwriting discounts.

(f) *Pricing materials.* (1) In considering the pricing information required under paragraph (c) of this section, the Corporation will apply the following guidelines:

(i) The materials shall be prepared by persons independent of the applicant, experienced and expert in the area of corporate appraisal, and acceptable to the Corporation;

(ii) The materials shall contain a brief summary of data that is sufficient to support the conclusions reached therein; and

(iii) To the extent that the appraisal is based on a capitalization of the pro forma income of the converted insured institution, the materials must indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings-multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on comparison of the capital stock of the applicant with outstanding capital stock of existing stock institutions, such existing stock institutions must be reasonably comparable to the converting insured institution in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

(2) In addition to the information required in paragraph (f)(1) of this section, the applicant shall submit information demonstrating to the satisfaction of the Corporation the independence and expertise of any person preparing materials under this paragraph. However, a person will not be considered as lacking independence for the reason that such person will participate in effecting a sale of capital stock under the plan of conversion or will receive a fee from the applicant for services rendered in connection with such appraisal.

(3) In addition to the information required in paragraphs (f) (1) and (2) of this section, the applicant shall file with the Corporation such additional information with respect to the pricing of the capital stock of the institution (including, without limitation, the amount of the control premium in a sale-of-control conversion pursuant to Subpart B of this Part) as the Corporation may request, including, without limitation, a full appraisal.

(g) *Order forms for purchase of capital stock.* (1) Promptly after the Corporation has declared effective the offering circular for the subscription offering, the applicant shall distribute order forms for the purchase of shares of capital stock in the offering to all eligible account holders, supplemental eligible account holders, voting members and other persons who may subscribe for shares of capital stock under the plan of conversion. If the converting insured institution shall have adopted in its plan of conversion the optional provisions set forth in § 563b.3(d) (6), (7), or (12) of this Part, the applicant shall deliver order forms to the eligible account holders, supplemental eligible account holders, and voting members who requested receipt of the offering circular.

(2) Each order form shall be accompanied or preceded by the final offering circular for the subscription offering or the public offering, as the case may be, and a set of detailed instructions explaining how to properly complete such order forms.

* * * * *

(4) * * *

(i) Indicate the maximum number of shares that may be purchased pursuant to the subscription rights;

* * * * *

(vi) Indicate the manner of required payment and, if such payment may be made by withdrawal from a certificate of deposit, indicate that such withdrawal may be made without penalty. If payment is to be made by withdrawal from a savings account or certificate of deposit, a box to check should be provided;

* * * * *

(viii) Contain an acknowledgment by the account holder or other person signing the order form that he has received a final offering circular prior to so signing; and

(ix) Indicate the consequences of failing to properly complete and return the order form, including a statement that the subscription rights are nontransferable and will become void at the end of the subscription period. The order form may, and the set of instructions shall, indicate the place or places to which the order forms are to be returned and when the order forms shall be deemed to be received, such as by date and time of actual receipt at the address indicated or by date and time of postmark.

(5) The order form may provide that it may not be modified without the applicant's consent after its receipt as set forth in the order form. If payment is to be made by withdrawal from a savings account or certificate of deposit, the applicant may, but need not, cause such withdrawal to be made upon receipt of the order form. If such withdrawal is made at any time prior to the closing date of the public offering, the applicant shall pay interest to the account holder on the account withdrawn as if such amount had remained in the account from which it was withdrawn until such closing date.

(h) *Withdrawal from certificate accounts.* Notwithstanding any regulatory provision regarding penalties

for early withdrawal from certificate accounts, the applicant may allow payment for capital stock pursuant to the exercise of subscription rights by withdrawal from a certificate account without the assessment of such penalties. In the case of early withdrawal of only a portion of such account, the certificate evidencing such account shall be cancelled if the applicable minimum balance requirement ceases to be met. The remaining balance will earn interest at the passbook rate.

* * * * *

(j) *Interest on subscriptions and direct community offering purchase orders.* The converting insured institution shall pay interest at not less than the passbook rate on all amounts paid in cash or by check or money order to the institution to purchase shares of capital stock in the subscription offering or direct community offering from the date payment is received by the institution until the conversion is completed or terminated.

(k) *Extensions of time to complete public offering or direct community offering; post-effective amendments to subscription offering circular.*

* * * * *

(2) Immediately upon the granting of an extension of time pursuant to paragraph (k)(1) of this section, the converting insured institution shall distribute to each subscriber in the offering and, if applicable, each person who has ordered capital stock in the direct community offering, a post-effective amendment to the offering circular filed under an amendment to the application for conversion and declared effective by the Corporation pursuant to paragraph (k)(4) of this section which shall notify each subscriber and each ordering person of the granting of the extension of time, and of the right of each subscriber and each ordering person to increase, decrease or rescind this subscription (i) at any time prior to 20 days before the end of the extension period, or (ii) at any time prior to the date of the commencement of the public offering or the direct community offering: *Provided*, that if the public offering or the direct community offering is not completed within 20 days after its commencement, all instructions from subscribers and ordering persons to increase, decrease, or rescind their subscriptions or orders received during the 20-day offering period shall be honored by the converting insured institution.

* * * * *

(4) After the expiration of subscription rights, the converting insured institution shall file with and have declared effective by the Corporation a post-effective amendment to the offering circular delivered to subscribers upon the occurrence of any event, circumstance, or change of circumstance which would be material to the investment decision of a subscriber or, if applicable, a person who has ordered capital stock in the direct community offering.

(5) Any post-effective amendment to an offering circular distributed to subscribers in the offering shall be distributed by the converting insured institution immediately after the declaration of effectiveness to each subscriber, and, if applicable, each person who has ordered stock in the direct community offering, and the converting insured institution shall grant to each subscriber and ordering person the right to increase, decrease, or rescind his subscription or order for a period which shall be no less than the greater of ten days from the date of the mailing of the post-effective amendment or the period remaining in an extension of time granted by the Corporation pursuant and subject to the provisions of paragraph (k)(2) of this section.

7. Amend § 563b.8 by revising paragraphs (c)(3) and (w)(2), as follows:

§ 563b.8 Procedural requirements.

* * * * *

(c) *Additional filing requirements.*

* * *

(3) Each offering circular for the offering shall be prepared in compliance with this Part and Form OC. The applicant shall file with the Corporation ten copies of each preliminary offering circular and twenty-five copies of each final offering circular.

* * * * *

(w) *Delegation of authority.* * * *

(2) *Approval of applications for conversion.* The Corporation delegates to the General Counsel or his designee the authority to approve but not to deny applications for conversion pursuant to the standards and restrictions set forth in this Subpart A, and to exercise any other authority of the Corporation under this Subpart A, excepting (i) the authority to waive any provision of this Subpart A pursuant to § 563b.1(a); (ii) the authority to approve other equitable provisions in the plan of conversion under § 563b.3(d)(13); (iii) the authority to approve any application for conversion in regard to which an objection has been filed pursuant to § 563b.4(b)(1); and (iv) the authority to approve or deny an application for approval to offer to acquire or to acquire more than 10 percent of the stock of a converted insured institution under § 563b.3(i)(3). The Board also delegates to the General Counsel or his designee, in connection with the approval of an application for conversion under this Subpart A, the authority to approve but not to deny applications for approval of security forms, charter amendments, and bylaw amendments under § 563.1 of this subchapter, and §§ 544.1, 544.5 and 555.2 of this chapter.

8. Revise § 563b.9 as follows:

§ 563b.9 Conversion of an insured institution in connection with the formation of a holding company.

An insured institution may convert to the stock form pursuant to this Subpart A as part of a transaction in which a holding company is organized to acquire upon issuance all the capital stock of the converted insured institution. In such a transaction eligible account holders, supplemental eligible account holders, and voting members of the converting insured institution shall receive, without payment, nontransferable rights under § 563b.3(c) (2), (4), and (5) of this Part to purchase capital stock of the newly-formed holding company in lieu of capital stock of the converting institution. Unless clearly inapplicable, all of the requirements of this Subpart A shall apply to a conversion under this section.

9. Revise § 563b.10 as follows:

§ 563b.10 Conversion of an insured institution in connection with an acquisition by an existing holding company; conversion of an insured institution through merger with an existing insured stock institution.

(a) *Conversion involving an existing holding company.* An insured institution may convert to the stock form pursuant to this Part 563b as part of a transaction in which an existing holding company acquires upon issuance all the capital stock of the converted insured institution. In such a transaction the eligible account holders, supplemental eligible account holders, and voting members of the converting insured institution shall receive, without payment, nontransferable rights under § 563b.3(c) (2), (4), and (5) of this Part from the holding company to purchase its capital stock in lieu of capital stock of the converting institution. Unless clearly inapplicable, all of the requirements of this Part 563b shall apply to a conversion under this paragraph (a).

(b) *Merger involving the issuance of holding company capital stock.* An insured institution may convert to the stock form pursuant to this Part 563b by merging into an existing insured stock institution which is a wholly-owned

subsidiary of a holding company. In such a transaction the eligible account holders, supplemental eligible account holders, and voting members of the converting insured institution shall receive,, without payment, nontransferable rights under § 563b.3(c) (2), (4), and (5) from the holding company to purcahse its capital stock in lieu of capital stock of the converting insured institution. Unless clearly inapplicable, all of the requirements of this Part 563b shall apply to a conversion under this paragraph (b).

(c) *Merger with an existing insured stock institution.* An insured institution may convert to the stock form by merging with an existing insured stock institution as part of a transaction in which the equity securities of the existing insured stock institutions or the converting insured institutions are issued. In such a transaction in which the existing insured stock institution is the surviving institution, the eligible account holders, supplemental eligible account holders, and voting members of the converting institution shall receive, without payment, nontransferable rights under § 563b.3(c) (2), (4), and (5) from the existing insured stock institution to purchase its capital stock in lieu of capital stock of the converting insured institution. Unless clearly inapplicable, all of the requirements of this Part 563b shall apply to a conversion under this paragraph (c).

10. Amend Form AC which follows § 563b.10 by removing Item 7 and redesignating Items 8 through 10 as Items 7 through 9, respectively; and by revising Exhibit 5; as follows:

Form AC

* * * * *

General Instructions

* * * * *

Exhibits

* * * * *

Exhibit 5. *Valuation Materials.*

Furnish any materials required to be filed by § 563b.7 regarding the valuation of the applicant's capital stock. An applicant is not required to file such materials if the offering of capital stock will not commence before the meeting of association members to vote on the plan of conversion.

11. Amend Form PS which follows Form AC by revising paragraphs (d) through (i)(1) of Item 8; and by removing Item 12 and redesignating Items 13 through 17 as Items 12 through 16, respectively; as follows:

Form PS

* * * * *

Item 8. *Description of the Plan of Conversion.*

* * * * *

(d) With respect to the subscription rights of members, furnish the following information: (1) the formula to be used for determining the subscription rights of account holders to purchase shares pursuant to § 563b.3(c) (2), (4), and (5); (2) any optional provisions included in the plan of conversion pursuant to § 563b.3(d) for the purchase of shares of capital stock, including the purchase priorities, limitation on total purchases, the total number of shares which may be purchased, and the formula for the allocation; (3) the allocation formulas to be used in the event that there is an oversubscription of shares at any time during the sale of stock under the plan of conversion; and (4) the use and timing of the order forms with respect to the exercise of subscription rights.

(e)(1) Set forth on a per-share basis the estimated public offering price range of the shares of capital stock to be sold pursuant to the plan of conversion, except that an estimated price range is not required to be stated if the offering of stock is not to commence until after the meeting of association members to vote on the plan of conversion; (2) state that the offering price will be the pro forma market value of such shares as determined by the institution's management and the underwriters, as the case may be; and (3) state that all of the shares are required to be sold.

(f) Unless the offering of stock is not to commence until after the meeting of association members to vote on the plan of conversion, discuss (1) the earnings per share on a pro forma basis of the capital stock to be sold as of the end of the most recent period covered by the statements of operation required by Item 15(b) (1); and (2) the book value per share on a pro forma basis as of the date of the latest statement of financial condition required by Item 15(a).

Instruction. Earnings and book value per share shall be furnished without giving effect to the estimated net proceeds from the sale of the capital stock, and then after giving effect to such proceeds with all assumptions used clearly stated.

(g) State the proposed commencement and expiration dates of the subscription period and describe any provisions in the plan of conversion related to the timing or extension of the subscription period. Also, state (1) that a maximum subscription price will be set forth in the offering circular used for offering of subscription rights; (2) that the actual subscription price will be the public offering price; (3) that the actual subscription price will not exceed the maximum subscription price shown on the order form; and (4) that any difference between the maximum and actual subscription prices will be refunded unless the subscribers affirmatively elect to have the difference applied to the purchase of additional shares of capital stock.

(h) Furnish the following information: (1) describe to the extent practicable the applicant's present intentions with respect to listing the capital stock on an exchange or otherwise providing a market for the purchase and sale of the capital stock in the future; (2) describe briefly the tax effect of the conversion both to the applicant and to the various classes of account holders receiving nontransferrable subscription rights to purchase capital stock in the conversion; (3) state that the plan of conversion is attached as an exhibit to the proxy statement (or will be made available on request if the summary proxy statement provided for by § 563b.3(d)(14) is being used) and should be consulted for further information.

(i)(1) State whether the plan of conversion provides for unsubscribed capital stock to be offered to the public through underwriters or directly by the converting institution. If such is the case, provide the information to the extent known required by Item 6 of Form OC and indicate the estimated timing of the proposed offering. (2) State whether the plan of conversion provides for the purchase by any person or group of any insignificant residue of shares remaining at the conclusion of the offering.

* * * * *

12. Amend Form OC which follows Form PS by revising Items 2, 5, and 6 (except for the instructions to paragraph (e) of that Item), as follows:

Form OC

* * * * *

Item 2. *Additional Current Information Required.*

Each offering circular shall, as of its respective dates of issuance, include, to the extent available, the following additional current information to the extent that such information is not already included in the proxy statement:

(a) Information with respect to the vote of association members upon the plan of conversion and any other proposals considered at the meeting of members.

(b) Information with respect to any recent material developments in the business or affairs of the applicant.

(c) Information with respect to the trading market that is expected to exist for the capital stock following the conversion.

(d) Information, on the outside front cover page, summarizing the results of any separate subscription offering including the number of shares sold to eligible account holders, voting members and others, the price at which the shares were sold, and the number of unsubscribed shares.

(e) The information required by Items 8(e)(1) and 8(f) of Form PS.

(f) Any other information necessary to make such offering circular current, including full financial statements of the applicant within six months prior to the date of issuance of such offering circular.

* * * * *

Item 5. *Information with Respect to Exercise of Subscription Rights.*

Any offering circular which is required to be delivered to subscribers shall describe all material terms of the offering relating to the exercise of subscription rights to the extent that such description is not already in the proxy statement. Such terms include the expiration date, any subscription agent, method of exercising subscription rights, payment for shares, delivery of stock certificates for shares purchased, maximum subscription price, possible reduction of

subscription price, relationship of subscription price to public offering price, requirement that all unsubscribed shares be sold, and any other material conditions relating to the exercise of subscription rights.

Item 6. *Information with Respect to Public Offering or Direct Community Marketing.*

Each offering circular shall describe the material terms of the plan or plans of distribution for all unsubscribed shares of capital stock to the extent such description is not already in the proxy statement, including the following:

(a) If the shares are to be offered through underwriters, the outside front cover page of both offering circulars shall give the information called for by this paragraph. In the case of the offering circular for any public offering, such information shall be given in substantially the tabular form set forth below. In any other case, the information may be given in narrative form. If the information is not known at the time of the subscription offering, so state and estimate.

	Price to public	Underwriting discounts and commissions	Proceeds to applicant
Per share	$	$	$
Total			

(b) An offering circular for a public offering or direct community marketing, where the plan of conversion does not contain the optional provision permitted by § 563b.3(d)(12), may omit the description relating to the exercise of subscription rights required by Item 5.

(c) If any shares are to be offered through underwriters, the offering circular for the public offering shall state the names of the principal underwriters and the respective amounts underwritten by each. The names of the principal underwriters other than the managing underwriters and the respective amounts to be underwritten may be omitted from the offering circular for the subscription offering, unless the plan of conversion contains the optional provision permitted by § 563b.3(d)(12). Each offering circular shall identify each principal underwriter having a material relationship to the applicant and state the nature of the relationship. Each offering circular shall state briefly the nature of the underwriter's obligation to take the unsubscribed shares.

(d) The offering circular for the public offering shall state briefly the discounts and commissions to be allowed or paid to dealers in connection with the sale of the unsubscribed shares. Such information may be omitted from the offering circular for any subscription offering, unless the plan of conversion contains the optional provision permitted by § 563b.3(d)(12).

(e) If any shares are to be offered through underwriters, the offering circular for the public offering shall identify any principal underwriter that intends to confirm sales to any accounts over which it exercises discretionary authority and include an estimate of the number of shares so intended to be confirmed. Such information may be omitted from the offering circular for any subscription offering.

Instructions.

(1) * * *

(2) * * *

(3) * * *

(f) If any shares are to be sold by the converting insured institution through a direct community marketing, indicate the timing of the offering, the geographical area where the offering will be made, the method to be employed to market the shares, including the frequency and nature of communications or contracts with potential purchasers, any preferences that will be given any such geographical area or class of potential purchasers, and the limitations on purchases by potential purchasers.

13. Add new Subparts B, C, and D to read as set forth below:

Subpart B—Sale-of-Control Conversions

Sec.

563b.11 Definitions.
563b.12 Conversion of an insured institution in connection with a sale of control.
563b.13 Additional requirements for sale-of-control conversions.
563b.14 Additional notice requirements.
563b.15 Record date: notice requirements in sale-of-control conversions.
563b.16 Competing sale-of-control offers.
563b.17 Management's proxy: mailing communications for proponents.
563b.18 Additional disclosure requirements.
563b.19 Additional requirements of sale-of-control applications.

Subpart C—Voluntary Supervisory Stock Conversions

563b.20 Scope of Subpart.
563b.21 Supervisory stock conversions.
563b.22 Authorization of supervisory conversions.
563b.23 Qualification for supervisory conversion.
563b.24 Power to appoint a receiver.
563b.25 No equity value realization upon liquidation.
563b.26 Viability of converted insured institution.
563b.27 Application for supervisory stock conversion.
563b.28 Procedural requirements.
563b.29 Conditions of approval.
563b.30 Sale of conversion stock.
563b.31 Restrictions on payments of dividends.
563b.32 Treatment of appraised equity capital.
563b.33 Treatment of net worth certificates.

Subpart D—Guidelines for Modified Conversions

563b.34 Scope of Subpart.
563b.35 Purpose of Subpart.
563b.36 Guidelines of qualification.
563b.37 Substantive guidelines.
563b.38 Acceptance of test-case applications.

Subpart B—Sale-of-Control Conversions

§ 563b.11 Definitions.

As used in this Subpart B, the following definitions apply unless the context otherwise requires:

(a) *Acquiring person.* An "acquiring person" is a person who acquires control of an insured institution as part of a sale-of-control conversion. Any person, together with any associate or group of persons acting in concert for the purpose of acquiring shares of capital stock in connection with the conversion of an insured institution, shall be deemed to be a "person" for purposes of this Subpart.

(b) *Control.* A person shall be deemed to have "control" of an insured institution if the person directly or indirectly, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, 10 percent or more of the voting shares of such insured institution, or controls in any manner the election of a majority of the directors of such institution: *Provided,* that control shall not exist as a result of the acquisition of shares of a converting institution pursuant to a plan of conversion that complies with the provisions of § 563b.3 of Subpart A of this Part.

(c) *Public shares.* The term "public shares" means any shares of capital stock of an insured institution, if any, which are issued in a sale-of-control conversion to any person who is not an acquiring person.

(d) *Sale-of-control conversion.* A sale-of-control conversion is any conversion of an insured institution from mutual to stock form pursuant to a plan of conversion which provides for the acquisition of control of the converting institution by any person.

§ 563b.12 Conversion of an insured institution in connection with a sale of control.

As insured institution may convert to stock form pursuant to this Part 563b as part of a transaction in which the converting institution enters into a binding agreement with any person pursuant to which such person will purchase control of the converting institution. In any sale-of-control conversion, eligible account holders, supplemental eligible account holders, and voting members of the converting institution shall receive, without payment, nontransferable rights under § 563b.3(c) (2), (4), and (5) of Subpart A of this Part to purchase shares of capital stock, if any, not required to be sold pursuant to such agreement. A sale-of-

control conversion shall comply with all of the provisions of this Subpart B, and, unless clearly inapplicable, all of the requirements of Subpart A of this Part.

§ 563b.13 Additional requirements for sale-of-control conversions.

The following requirements shall apply to any sale-of-control conversion:

(a) *Additional required provisions in the plan of conversion.* A sale-of-control plan of conversion shall, in addition to containing the applicable provisions required by § 563b.3(c) of this Part:

(1) Provide that the converting insured institution shall issue and sell a specified percentage or specified dollar amount of its capital stock to an acquiring person in connection with the conversion at a price per share equal to the estimated pro forma market value of its capital stock, plus a specified control premium over such price equal to the estimated pro forma market value of the control over the converting insured institution represented by such shares.

(2) Provide that subscription rights, if any, of eligible account holders, supplemental eligible account holders, and voting members shall be subordinated to the rights of any acquiring person to acquire capital stock of the converting insured institution.

(3) Provide that any public shares shall be sold pursuant to the exercise of subscription rights or otherwise either in a public offering through an underwriter(s) or directly by the converting insured institution in a direct community offering or in any other manner, subject to the applicant demonstrating to the Corporation the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. Such conditions shall include, but not be limited to, the conditions set forth in § 563b.3(c)(5) (i) and (iv) of this Part.

(4) Provide that no acquiring person or affiliate or associate thereof, for a period of three years following the conversion, shall, without the prior written approval of the Corporation, purchase any shares of the capital stock of the converted insured institution if the amount of shares so acquired in any three-month period would exceed one percent of the outstanding shares of capital stock of the converted insured institution.

(5) Provide that all shares of capital stock purchased by an acquiring person or any affiliate thereof shall be subject to the restriction that the shares shall not be sold for a period of not less than one year following the date of purchase.

(6) Provide that, in connection with shares of such capital stock:

(i) Each certificate for such stock shall bear a legend giving appropriate notice of the restriction of paragraph (a)(5) of this section;

(ii) Appropriate instructions shall be issued to the transfer agent for the converted insured institution's capital stock with respect to applicable restrictions on transfer of any such restricted stock; and

(iii) Any shares issued as a stock dividend, stock split, or otherwise with respect to any such restricted stock shall be subject to the same restrictions as may apply to such restricted stock.

(7) Provide that no acquiring person or any affiliate thereof shall receive, or be entitled to, subscription rights in connection with the conversion.

(8) Provide that, in connection with the conversion, no acquiring person shall purchase any shares of the insured institution other than the shares required to be issued to the acquiring person pursuant to the plan of conversion.

(b) *No summary proxy statement.* A sale-of-control plan of conversion may not contain the optional provision contained in § 563b.3(d)(14) of this Part with respect to the use of proxy statements in summary form.

§ 563b.14 Additional notice requirements.

Promptly after the adoption of a plan of conversion providing for the sale of control, the insured institution shall give notice to its members as required by § 563b.4(a) (3) and (4) and as set forth in this section.

(a) *Additional information.* In addition to the information permitted or required to be included in such notice by § 563b.4(a)(4), such notice in the case of a sale-of-control conversion shall include the following information:

(1) The name(s) of the acquiring person;

(2) A brief description of the business(es) of the acquiring person;

(3) A brief description of the terms and conditions of the sale-of-control transaction including (i)(A) the percent of shares proposed to be issued in the conversion to the acquiring person or (B) the amount of consideration that the acquiring person has agreed to pay for shares of the converting institution in the conversion and an estimate of the percent of shares in the conversion which may be acquired for such amount; and (ii) the amount of the control premium to be paid by the acquiring person which shall be stated as a percentage of the offering price of the public shares;

(4) A statement that, pursuant to the Board's regulations and as an alternative to the sale-of-control conversion, the converting insured institution could seek approval to convert to stock form in a manner that would prohibit the sale of control to any person, and that conversion pursuant to such regulations might result in a wider distribution of the converting institution's capital stock and a more active trading market for such stock; and a detailed explanation by management of the converting institution as to the reasons why it favors the proposed sale-of-control conversion; and

(5) A statement of the acts that the converting institution may be requested to perform pursuant to § 563b.17 of this Part with respect to the mailing of proxy statements and proxies or other communications to be furnished with respect to alternative offers to acquire control of the converting insured institution.

(b) The statement permitted by § 563b.4(a)(4)(ii) of this Part with respect to the required approval of members is required to be included in a notice relating to a sale-of-control conversion.

(c) *Additional dissemination.* Simultaneously with the publication of the notice required by § 563b.4(a)(3), the converting institution shall issue a press release containing the information required by this section. Such press release shall be issued on an "immediate release" or "not held" basis to *The Wall Street Journal*, to a newspaper having general circulation in each community in which an office of the insured institution is located, to the news-ticker services operated by Dow Jones & Company, Inc., to Reuters Economic Services and to the news-wire services of the Associated Press and United Press International.

§ 563b.15 Record date; notice requirements in sale-of-control conversions.

(a) *Determining members eligible to vote.* The record date for determining those persons eligible to vote at the meeting called to consider a sale-of-control plan of conversion shall be not more than 85 days nor less than 70 days prior to the date of such meeting, unless State law requires a different voting record date.

(b) *Notice to members.* Notice of the meeting to consider a plan of conversion shall be given by means of the proxy statement of management of the converting institution that has been authorized for use by the Corporation or, in the event of an extension of such meeting date pursuant to § 563b.16(d) of this Part, by means of the notice required by that section. The notice

shall be given not more than 70 days nor less than 45 days prior to the date of the meeting to each member of the converting institution entitled to vote at the meeting, unless State law requires a different notice period.

§ 563b.16 Competing sale-of-control offers.

(a) *General.* Any person (hereinafter the "proponent") may present a sale-of-control plan of conversion (but not any other plan of conversion) to a vote of the members at any meeting of members of the converting insured institution called by management of the converting institution to vote upon any other sale-of-control plan of conversion. Upon approval by at least a majority of the total outstanding votes of the converting insured institution's members, a proponent's plan of conversion shall be adopted by the institution, and shall be binding on the institution and the proponent, unless State law requires approval by a higher percentage for a State-chartered converting insured institution, in which case the higher percentage shall control.

(b) *Approval requirements of proponent's proposals.* No application for a sale-of-control conversion of a proponent shall be approved by the Corporation unless the sale-of-control plan of conversion of the proponent is in accordance with the provisions of § 563b.3 of Subpart A, unless such provision is clearly inapplicable, and this Subpart B.

(c) *Procedural requirements.* The provisions of Subpart A shall apply to any application for conversion concerning a sale-of-control conversion which a proponent proposes to submit to a meeting of members, unless such provision is clearly inapplicable, except that:

(1) No sale-of-control conversion application of a proponent shall be accepted for filing by the Corporation unless it is filed with the Corporation within 20 days of the date that the proxy statement of management of the converting institution giving notice of the meeting called to consider the sale-of-control plan of conversion approved by management of the converting institution is first sent or given to members;

(2) There may be omitted from the application for conversion and the proxy statement of any proponent any information contained in any other application for sale-of-control conversion filed with the Corporation or any other proxy statement which has been or will be furnished to each member solicited in connection with the meeting to approve the sale-of-control plan of conversion if a reference is made to the particular document containing such information;

(3) As soon as practicable on the date the sale-of-control conversion application is accepted for filing by the Corporation, the proponent shall hand-deliver a copy of the application, including all exhibits thereto, to the converting insured institution at its home office, to the person whose sale-of-control plan of conversion was approved by management of the converting institution, and to any other proponent which has given notice pursuant to § 563b.4(a)(3) of this Part, at such proponent's principal executive offices; and

(4) Promptly after receipt of a proponent's sale-of-control conversion application pursuant to paragraph (c)(3) of this section, the converting institution shall give notice to its members regarding proponent's sale-of-control conversion application pursuant to § 563b.14 of this Part.

(d) *Extension of meeting date.* The acceptance for filing by the Corporation of a sale-of-control conversion application of a proponent shall, without further action on the part of the converting insured institution, extend the date for the holding of the meeting of members called to approve the plan of conversion approved by management of the converting institution to a date 70 days following the date on which notice of such meeting is or was first given, unless such date falls on a weekend or legal holiday, in which case such meeting shall be held on the next business day. Unless such date is the date established in a notice of meeting already given or to be given to the converting institution's members, the converting institution shall, after receiving the sale-of-control conversion application of a proponent, promptly give notice, by postcard or other appropriate form, to each member of the converting institution eligible to vote at such meeting of such new meeting date and include the information required by § 563b.14.

(2) Upon acceptance for filing by the Corporation of a proponent's sale-of-control plan of conversion, management of the converting insured institution shall not, without the prior written approval of the Corporation, further extend or cancel or otherwise terminate the meeting of members called to vote upon the sale-of-control plan of conversion approved by management.

§ 563b.17 Management's proxy: mailing communications for proponents.

(a) *Proxy requirements.* If any proponent notifies an insured institution proposing to convert to stock form in a sale-of-control conversion of such proponent's intention to present an alternative sale-of-control plan of conversion at the meeting of members called to vote on the sale-of-control plan of conversion approved by management of the institution, the institution shall identify and provide the information required by § 563b.14 with respect to the proponent's sale-of-control plan of conversion in management's form of proxy and the institution's proxy statement and provide the information required by § 563b.5(d)(1) (iii) and (viii) of this Part. Notwithstanding the foregoing, the converting insured institution shall not be required to include such information regarding proponent's proposal in the management's form of proxy and proxy statement unless the proponent has complied with the requirements of this paragraph.

(1) *Timeliness.* The proponent shall submit his proposal to the converting institution within 20 days of the date on which notice is given to members under § 563b.4(a)(3) of this Part and the converting institution's press release is released to the public under § 563b.14(c) of this Part.

(2) *Prior filing.* Prior to the date on which a proponent's submission is made to the converting insured institution, the proponent shall have filed with the Corporation (i) a plan of conversion; (ii) a preliminary proxy statement; and (iii) a preliminary form of proxy, and shall have delivered to the converting institution a copy of such proponent's conversion application as required by paragraph (c) of this section. The converting insured institution shall not be required to present the proponent's sale-of-control plan of conversion at the meeting called to vote thereon unless the Corporation has given its prior written approval of such plan of conversion.

(3) *Notice and attendance at the meeting.* A proposal may be presented at the meeting either by the proponent or its representative who is qualified under applicable law to present the proposal on the proponent's behalf at the meeting. In the event that the proponent or its representative fails, without good cause, to present the proposal for action at the meeting, the converting institution shall not be required to present such proposal.

(b) *Mailing communications for proponents.* If the management of the converting institution has adopted a sale-of-control plan of conversion, the converting institution shall perform such of the following acts as may be duly

requested in writing with respect to a proponent's sale-of-control plan of conversion by a proponent who will defray the reasonable expenses to be incurred by the converting institution in the performance of the act or acts requested.

(1) The converting institution shall mail or otherwise furnish to such proponent the following information as promptly as practicable after receipt of such request:

(i) A statement of the approximate number of members of the converting institution who have been or are to be solicited on behalf of the management, or any group of such members which the proponent shall designate;

(ii) If the converting insured institution has made or intends to make, through brokers or nominees or other persons, any solicitation of beneficial owners of accounts or deposits, a statement of the approximate number of such beneficial owners, or any group of such owners which the proponent shall designate; and

(iii) An estimate of the cost of mailing a specified proxy statement, form of proxy, or other communication to such members of the converting insured institution.

(2) Copies of any proxy statement, form of proxy, or other communication furnished by the proponent and approved by the Corporation shall be mailed by the converting insured institution to such of the members specified in paragraph (b)(1)(i) of this section as the proponent shall designate. The converting institution shall also mail to each broker, nominee, or other person specified in paragraph (b)(1)(ii) of this section a sufficient number of copies of such proxy statement, form of proxy, or other communication as will enable the broker, nominee, or other person to furnish a copy thereof to each beneficial owner solicited or to be solicited through him.

(3) Any such material which is furnished to the converting institution by the proponent shall be mailed with reasonable promptness by the converting institution after receipt of the material to be mailed, envelopes, or other containers therefor, and postage or payment for postage; provided, however, that such material need not be mailed prior to the first day on which solicitation is made on behalf of management of the converting institution.

(4) Except for information incorporated by reference to management's own proxy statement, form of proxy or other communication, neither management of the converting institution nor the converting institution shall be responsible for such proxy statement, form of proxy or other communication.

(c) In lieu of performing the acts specified above, the converting institution may, at its option, if not prohibited by applicable law, furnish promptly to such proponent a reasonably current list of the names and addresses of such of the members of the converting institution specified in paragraph (b)(1)(i) of this section as the proponent shall designate, and a list of the names and addresses of such of the brokers, nominees or other persons specified in paragraph (b)(1)(ii) of this section as the proponent shall designate together with a statement of the approximate number of beneficial owners solicited or to be solicited through each such broker, nominee or other person, and a schedule of the handling and mailing costs of each such broker, nominee, or other person, if such schedule has been supplied to the converting insured institution. The foregoing information shall be furnished promptly upon the request of the proponent or at daily or other reasonable intervals as it becomes available to the converting insured institution.

§ 563b.18 Additional disclosure requirements.

(a) No solicitation of proxies and no offer or sale of capital stock in connection with a sale-of-control conversion shall be made unless the person so solicited is concurrently furnished or has been previously furnished a proxy statement containing the information required by Form PS and the additional information required by this section, or the person to whom capital stock is so offered or sold is concurrently furnished or has been previously furnished an offering circular containing the information required by Form OC and the additional information required by this section, with the exception of paragraph (b)(5).

(1) *Instruction:* If the acquiring person is a partnership, limited partnership, syndicate or other group, the information called for by paragraphs (b)(1) through (4), inclusive, and (6) of this section ("the cited provisions") shall be given with respect to: (i) each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the acquiring person is a corporation, or if a person referred to in paragraphs (i), (ii), (iii), or (iv) of this Instruction is a corporation, the information called for by the cited provisions shall be given with respect to: (v) each executive officer and director of such corporation; (vi) each person controlling such corporation; and (vii) each executive officer and director of any corporation ultimately in control of such corporation. A response to the cited provisions is required with respect to the acquiring person and all other persons referred to in this Instruction unless any of the cited provisions specifies to the contrary.

(b) The additional information required to be disclosed in a proxy statement or offering circular used in connection with a sale-of-control conversion shall include the following:

(1) *Identity and background.* If the acquiring person is a corporation, partnership, limited partnership, syndicate or other group of persons, state its name, the state or other place of its organization, the address of its principal office, and the information required by paragraphs (v), (vi), (vii), and (viii) of this paragraph (b)(1). If the acquiring person is a natural person, provide the information required by paragraphs (i) through (viii) of this paragraph (b)(1) with respect to such person(s).

(i) Name;

(ii) Residence or business addresses;

(iii) Present principal occupation or employment and the name, principal business, and address of any corporation or other organization in which such occupation or employment is conducted;

(iv) Material occupations, positions, offices, or employments during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which such occupation, position, office, or employment was carried on;

(v) The information required by paragraphs (a) and (c) of Item 101 of Regulation S-K, 17 CFR 229.101, of the Securities and Exchange Commission; and, if such person is a reporting person under the Securities Exchange Act of 1934, a statement that such person files periodic reports, proxy statements, and other information with the Securities and Exchange Commission under such Act relating to its business, financial statements, and other matters, and a statement of the addresses of the Securities and Exchange Commission and of any stock exchange(s) where copies of such periodic reports, proxy statements, and other information may be inspected or obtained;

(vi) Whether or not, during the last 5 years, such person has been convicted

in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

(A) *Instruction.* A negative answer to this paragraph is not required.

(vii) Whether or not, during the last five years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree, or final order enjoining future violation of, or prohibiting activities subject to, federal or state securities laws, the Commodity Exchange Act, the Federal Home Loan Bank Act, the Home Owners' Loan Act, or the National Housing Act, or any federal or state banking laws or insurance laws, or finding any violation of such laws or finding any material violation of any other federal, state or foreign laws; and, if so, identify and describe such proceedings and summarize the terms of such judgment, decree, or final order; and

(A) *Instruction:* A negative answer to this paragraph is not required.

(viii) Citizenship(s).

(2) *Past contracts, transactions, or negotiations with the converting institution.*

(i) Briefly state the nature and approximate amount (in dollars) of any transaction, other than those described in paragraph (b)(2)(ii) of this section which has occurred since the commencement of the converting insured institution's third full fiscal year preceding the date of the proxy statement or offering circular, between the acquiring person or any of its affiliates and the converting insured institution or any of its affiliates.

(ii) Describe any contracts, negotiations, or transactions which have occurred since the commencement of the converting insured institution's third full fiscal year preceding the date of the proxy statement or offering circular between the acquiring person or its affiliates and the converting institution or its affiliates concerning a merger, consolidation, or acquisition; an election of directors; or a sale or other transfer of a material amount of assets.

(3) *Source and amount of funds or other consideration.* (i) State the source and the total amount of funds or other consideration for the purchase of the maximum number of shares of capital stock which the acquiring person proposes to acquire.

(ii) If all or any part of such funds or other consideration are, or are expected to be, directly or indirectly, borrowed for the purpose of the acquisition:

(A) Provide a summary of each loan agreement or arrangement containing the identity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions relative to such loan agreement; and

(B) Briefly describe any plans or arrangements to finance or repay such borrowings, or, if no such plans or arrangements have been made, make a statement to that effect.

(iii) If the source of all or any part of the funds to be used in the acquisition of control is a loan made in the ordinary course of business by a bank or association, the name of such bank or association need not be disclosed if the acquiring person so request in writing and files such request, naming such bank or association, with the Corporation, unless the bank or association is the converting institution or an affiliate of the converting institution.

(4) *Purpose of the acquisition of control and plans or proposals of the acquiring person.* State the purpose or purposes of the sale or acquisition of control. Describe any plans or proposals of the acquiring person or the converting insured institution which relate to or would result in:

(i) An extraordinary corporate transaction, such as a merger, reorganization, or liquidation, involving the converting institution or any of its subsidiaries;

(ii) Failure of the public shareholders to have voting rights or appraisal rights with respect to any such extraordinary corporate transaction;

(iii) A sale or transfer of a material amount of assets of the converting insured institution or any of its subsidiaries;

(iv) Any change in the present board of directors or management of the converting institution and any plans or proposals regarding continued employment or compensation of any of such persons;

(v) Any other material change in the converting insured institution's business;

(vi) Causing the converting insured institution's capital stock to fail to be authorized to be quoted in an interdealer quotation system of a registered national securities association; or

(vii) The capital stock of the converting insured institution becoming eligible for termination of registration pursuant to section 12(g)(4) of the Securities Exchange Act of 1934 after the expiration of the undertaking required by § 563b.3(c)(19)(i) of this Part.

(5) *Effect of sale-of-control conversion.* Briefly describe the effects of a sale-of-control conversion, including the following:

(i) A statement that, pursuant to the Board's regulations and as an alternative to the sale-of-control conversion, the converting insured institution could seek approval to convert to stock form in a manner that would prohibit the sale of control to any person and that conversion pursuant to such regulatons might result in a wider distribution of the converting institution's capital stock and a more active trading market for such capital stock;

(ii) If the proxy statement is to be used by management to solicit proxies, a statement of why management is recommending approval of the sale-of-control conversion;

(iii) A statement that, in connection with a conversion not involving the sale of control, the subscription rights of eligible account holders, supplemental eligible account holders, and voting members would not be subordinated to the rights of the acquiring person to acquire capital stock of the converting institution; and

(iv) A statement that approval of the sale-of-control conversion may result in the converting institution not receiving other offers to acquire control of the converting institution on terms and conditions that might be more favorable to the converting institution and its members.

(6) *Contracts, arrangements, understandings, or relationships with respect to the converting institution's securities.* Describe any contract, arrangement, understanding, or relationship (whether or not legally enforceable) between the acquiring person or its affiliates and any person with respect to any securities of the converting insured institution naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the material provisions thereof. Include such information for any of such securities that are pledged or otherwise subject to a contingency the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that disclosure of standard default and similar provisions contained in loan agreements need not be included. State whether any of such contracts, arrangements, understandings, or relationships are in violation of § 563b.3(i) of this Part.

(7) *Persons retired, employed, or to be compensated.* Identify all persons and

classes of persons employed, retained, or to be compensated by the acquiring person, or by any person on the acquiring person's behalf, to make solicitations or recommendations in connection with the conversion, and describe briefly the terms of such employment, retainer, or arrangement for compensation.

(8) *Financial statements of the acquiring person.* (i) The following current financial statements shall be provided unless the sale-of-control plan of conversion requires the issuance of all of the capital stock of the converting institution to the acquiring person:

(A) where the acquiring person is other than a natural person, furnish the financial information concerning the acquiring person set forth in paragraph (*1*) of this paragraph (b)(8)(i): *Provided,* that if the acquiring person is controlled by another entity which is not a natural person and has been formed for the purpose of acquiring the shares of capital stock of the converting institution, furnish financial information concerning the controlling entity; and (B) where the acquiring person is a natural person, furnish the financial information set forth in paragraph (*2*) of this paragraph (b)(8)(i).

(*1*) Income statement.

Net sales and operating revenues and other revenues
Income before extraordinary items
Net income
Balance sheet (at end of period):
Working capital
Total assets
Total assets less deferred research and development charges and excess cost of assets acquired over book value
Total indebtedness
Shareholders' equity
Per share
Income per common share before extraordinary items
Extraordinary items
Net income per common share (and common share equivalents, if applicable)
Nete income per share on a fully diluted basis

(*2*) Statement of net worth.

(ii) If the acquiring person is not subject to the periodic reporting requirements of the Securities Exchange Act of 1934, the financial statements required by this paragraph need not be audited if such audited financial statements are not available or obtainable without unreasonable cost or expense and a statement is made to that effect disclosing the reasons therefor.

(9) *Additional information.* If material to a decision by a member whether to acquire shares of stock in the conversion, furnish information as to the following:

(i) Any present or proposed contracts, arrangements, understandings, or relationships between the acquiring person or any of its executive officers, directors, controlling persons or subsidiary affiliates or associates and the converting institution or any of its executive officers, directors, affiliates or associates (other than any contract, arrangement or understanding required to be disclosed pursuant to paragraphs (b) (2) and (6) of this section);

(ii) The applicability of anti-trust laws;

(iii) The applicability of Section 407(q) and 408 of the National Housing Act and the regulations promulgated thereunder; and

(iv) Such additional material information, if any, as may be necessary to make the required statement, in light of the circumstances under which they are made, not materially misleading.

§ 563b.19 Additional requirements of sale-of-control application.

In addition to the information required by Form AC, an application for conversion in connection with a sale-of-control conversion shall include the following:

(a) Any stock purchase or other agreement between the converting insured institution and the acquiring person.

(b) Any loan agreement referred to in § 563b.16(b)(3) of this Part;

(c) Any document setting forth the terms of any contracts, arrangements, understandings, or relationships referred to in § 563b.18(b) (2) and (6) of this Part;

(d) All documents in the possession of the converting insured institution which set forth the material terms of any proposal received by the institution within one year preceding the date of the filing of the application for conversion, and thereafter until approval is received from the Corporation, relating to an acquisition of control of the converting insured institution in a conversion subject to this Subpart C which was rejected by management or the board of directors of the institution;

(e) A fairness opinion signed by persons independent of the converting association and the acquiring person, experienced and expert in the area of corporate appraisal and acceptable to the Corporation to the effect that the terms and conditions of the proposed conversion are fair and equitable to the converting insured institution and to its members;

(f) Information demonstrating to the satisfaction of the Corporation the independence and expertise of any person preparing the fairness opinion required by paragraph (e) of this section: *Provided,* that a person will not be considered as lacking independence for the reason that such person will participate in effecting a sale of capital stock under the plan of conversion or will receive a fee from the applicant for services rendered in connection with such opinion;

(g) Any notices which are required to be filed with the Corporation prior to the acquisition of control under § 563.18–2 of this Subchapter; and

(h) Any application for approvals of the Corporation which are required under Part 584 of this Subchapter as a result of the transaction contemplated by the plan of conversion.

Subpart C—Voluntary Supervisory Stock Conversions

§ 563b.20 Scope of subpart.

Except as the Board may otherwise determine, the provisions of this Subpart shall govern the voluntary conversion of mutual insured institutions to capital stock insured institutions. A voluntary supervisory stock conversion is a conversion authorized or ordered by the Board pursuant to a Plan of Conversion adopted by majority vote of the board of directors of the converting insured institution. The determination to authorize or order a supervisory stock conversion shall be in the sole discretion of the Board.

§ 563b.21 Supervisory stock conversions.

A supervisory conversion is the sale of a mutual insured institution's newly-issued capital stock to a third party or parties in a transaction in which the association members have no rights of approval or participation, and no rights to the continuance of any legal or beneficial ownership interest in the converted insured institution.

§ 563b.22 Authorization of supervisory conversions.

The Board will consider authorizing or ordering a supervisory stock conversion if the insured institution files an application containing the information and documents specified in § 563b.27 of this Part, in accordance with the procedures specified in § 563b.28 of this Subpart, and meets the qualification standards specified in § 563b.23 of this Subpart. If the Board authorizes or orders a supervisory stock conversion, the conditions specified in § 563b.29 of this Part must be fulfilled, and the converted insured institution and the

purchaser or purchasers of its conversion stock must comply with the requirements of § 523b.30 of this Part.

§ 563b.23 Qualification for supervisory conversion.

The Board may in its discretion authorize, and in the case of a Federally-chartered insured institution, may in its discretion order, the supervisory stock conversion of an insured institution when: (a) as to a Federally-chartered insured institution, the Board has the power to appoint a receiver for the purpose of liquidation, or, as to a state-chartered insured institution, the Board would have the power to appoint a receiver for the purpose of liquidation were the institution Federally-chartered; (b) upon liquidation, there would be no equity value realizable by the mutual accountholders; (c) the insured institution is in receivership, or the Corporation has contracted to provide assistance to the insured institution under Section 406 of the National Housing Act, or the Board has determined that severe financial conditions exist which threaten the financial condition of the insured institution and that such authorization is likely to improve the financial condition of the insured institution; and (d) the insured institution would be a viable entity under § 563b.26 of this Part following the conversion.

§ 563b.24 Power to appoint a receiver.

(a) The existence of any of the grounds set forth in Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 for the appointment by the Board of a receiver for the purpose of liquidation shall satisfy the requirement of § 563b.23(a) of this Subpart.

(b) Insolvency may be found to exist under Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 for the purposes of this Subpart on either a book-value balance-sheet basis or a market-value balance-sheet basis. The finding of insolvency shall be based upon the conclusions of the Principal Supervisory Agent or his designee ("PSA"), with the concurrence of the Director of the Board's Office of Examinations and Supervision or his designee ("Director").

(1) The PSA shall base his conclusion that the insured institution is insolvent on a book-value balance-sheet basis on the insured institution's latest semi-annual report and the most current audited or unaudited financial information dated after the date of the semi-annual report, which shall be provided by the insured institution to the PSA.

(2) If the insured institution is not insolvent on a book-value balance-sheet basis, but is projected to be insolvent on such a basis in less than one year, and such projected insolvency is not reasonably reversible, the PSA may determine whether the insured institution is insolvent on a market-value balance-sheet basis. Interest-rate projections used by the PSA or his designee for the book-value balance-sheet insolvency projection shall be the most recent forecast provided by the Board's Office of Policy and Economic Research. The conclusion of the PSA that the institution is insolvent on a market-value balance-sheet basis must be based upon clearly identified assumptions with supporting justifications, and an insolvency analysis performed by the Quantitative Analysis Division of the Corporation.

§ 563b. 25 No equity value realizable upon liquidation.

The finding that no value would be realizable upon liquidation by the members of the insured institution shall be based upon the conclusion of the PSA with the concurrence of the Director. The conclusion of the PSA shall be based upon a liquidation analysis performed by the Quantitative Analysis Division.

§ 563b.26 Viability of converted insured institution.

(a) An application of an insured institution to convert pursuant to this Subpart may be approved by the Board in its discretion if it finds that the insured institution will be a viable entity following conversion. For the purposes of this Subpart only, a converting insured institution may be deemed a viable entity if it is determined by the Board that the net worth of the insured institution after conversion would meet regulatory requirements and would be reasonably sufficient to absorb projected operating losses for a period of not less than three years after the date of completion of the conversion without the application of appraised equity capital or net worth certificates. The finding of viability shall be based upon the conclusion of the PSA with the concurrence of the Director.

(b) The determination of the PSA regarding the viability of the converting insured institution shall be based upon the most recent interest-rate forecast of the Office of Policy and Economic Research, the application of reasonable assumptions in the analysis of the insured institution's business plan required by § 563b.27(d) of this Part, relevant historical experience, and material tax consequences, if any, of the conversion. If the proposed conversion stock purchaser or purchasers guarantee to maintain the insured institution's net worth in the amount required by § 563.13 of this Subchapter for a period of not less than three years after the date of completion of the conversion, the conclusion of the PSA shall be based upon the projected operating results of the insured institution over a three-year period and the financial capability of the purchaser or purchasers to maintain net-worth compliance.

§ 563b.27 Application for supervisory stock conversion.

An insured institution may apply for Board approval of a supervisory conversion pursuant to this Subpart by filing the following information and documents in accordance with the procedures specified in § 563b.28 of this Subpart:

(a) The plan of conversion ("Plan") adopted by the board of directors of the institution. The Plan shall contain at a minimum the name and address of the insured institution; the names and addresses of the proposed purchasers of conversion stock and their relationship to the insured institution; the title, per-unit par value, number, and per-unit and aggregate offering price of shares of conversion stock to be authorized and issued; the number and percentage of shares of conversion stock to be purchased by each investor; the aggregate number and percentage of shares of conversion stock to be purchased by directors, officers, or their associates (as defined in § 563b.2(a)(4) of this Part); the form of consideration to be paid for the conversion stock; and certified copies of all resolutions of the board of directors relating to the Plan.

(b) A copy of all supervisory stock conversion agreements between the insured institution and the proposed conversion stock purchaser(s).

(c) An opinion of qualified, independent counsel or an independent, certified public accountant regarding the tax consequences to the insured institution arising from the conversion, or an Internal Revenue Service ruling that the transaction qualifies as a tax-free reorganization, unless the proposed conversion stock purchaser(s) guarantee to maintain the insured institution's net worth in the amount required by § 563.13 of this Subchapter for a period of not less than three years from the date of completion of the conversion.

(d) The business plan, which shall contain a description of the proposed operating policies of the insured institution following the conversion, including a statement as to how the

conversion proceeds will be used, and a projection of the insured institution's results of operations for the three-year period following completion of the conversion. The insured institution shall specify the assumptions on which its projections are based.

(e) A savings and loan holding company application as required by § 584.4 of this Chapter or a Change-in-Control Act Notice as required by § 563.18–2 of this Subchapter, if applicable.

(f) The proposed charter and bylaws of the converted insured institution.

(g) The proposed stock certificate form.

(h) A description of all existing and proposed employment contracts.

(i) Resolutions of the board of directors of the institution regarding appraised equity capital as required by § 563b.32 of this Part, if applicable.

(j) All filings required under the securities offering rules of proposed 12 CFR Part 563g (48 FR 10684; March 14, 1983), or such final regulatory requirements on that subject as may be adopted by the Board.

§ 563b.28 Procedural requirements.

(a) *Filing of supervisory conversion application.* An insured institution seeking to convert pursuant to this Subpart shall file an original and two copies of its supervisory conversion application containing the information and documents specified in § 563b.27 of this Part with the PSA and one copy with the Board's Office of Examinations and Supervision, Washington, D.C. The application shall be deemed to be filed on the date received by the PSA, provided that the copy required to be filed with the Office of Examinations and Supervision has been submitted by that date.

(b) *Incomplete application.* An application for supervisory stock conversion that does not contain all of the information and documents specified in § 563b.27 shall constitute an incomplete application, and the PSA shall continue to seek other appropriate supervisory resolutions of the institution's financial condition pending the filing of a complete application.

(c) *Termination or amendment of charter.* (1) Upon Board approval of a plan of supervisory stock conversion of a state-chartered insured institution or a Federally-chartered insured institution which is converting to a state-chartered stock insured institution, the charter of such insured institution shall terminate upon issuance to it of a stock charter under the laws of the state in which its home office is located. If such converting insured institution is a Federally-chartered insured institution, its Federal charter shall be surrendered promptly to the Board for cancellation. An insured institution converting to a state-chartered stock insured institution shall promptly file with the Corporation a copy of the stock charter issued to it. The certificate of insurance of such insured institution shall be surrendered promptly to the Corporation for amendment or cancellation, and the Corporation shall promptly issue an amended or new certificate of insurance to the converted insured institution.

(2) A Federally-chartered mutual insured institution converting to a Federally-chartered stock insured institution shall apply to amend its charter and bylaws to read in the form of charter and bylaws for a Charter S or Charter T institution, whichever is appropriate. The effective date of such amendment shall be stated in the Board's resolution approving the conversion.

(3) The corporate existence of a Federally-chartered mutual insured institution converting to a Federally-chartered stock insured institution shall be deemed to be a continuation of the entity of the institution so converted. In the case of a Federally-chartered or a state-chartered mutual insured institution converting to a state-chartered stock insured institution, unless state law otherwise prescribes, the corporate existence of the converting mutual insured institution shall similarly not terminate and the converted stock insured institution shall be deemed to be a continuation of the entity of the insured institution so converted.

§ 563b.29 Conditions of approval.

Board approval of a supervisory conversion application will be conditioned upon the following: (a) completion of the sale of conversion stock within a maximum of three months after the Board approves the application, or within such additional period as the General Counsel or his designee may for good cause grant; (b) compliance with all filing requirements of proposed 12 CFR Part 563g, or such final regulatory requirements on that subject as may be adopted by the Board; (c) submission of an opinion of independent legal counsel that all applicable state securities law requirements have been met in connection with the sale of the institution's conversion stock; (d) compliance with all applicable laws, rules, and regulations; and (e) satisfaction of any other requirement or condition the Board may impose.

§ 563b.30 Sale of conversion stock.

Each insured institution that converts pursuant to this Subpart shall offer and sell its conversion stock pursuant to the requirements of proposed 12 CFR Part 563g, or such final regulatory requirements on that subject as may be adopted by the Board, and the offering and sale of the conversion stock must constitute a non-public offering under those provisions.

§ 563b.31 Restrictions on payments of dividends.

An insured institution that converts pursuant to this Subpart shall be subject to the conditions set forth in § 563b.3(g)(2)(ii) and (3) of this Part.

§ 563b.32 Treatment of appraised equity capital.

(a) In determining whether an insured institution qualifies for a supervisory conversion pursuant to this Subpart, the PSA shall not include appraised equity capital in the institution's regulatory net worth unless the institution has done so pursuant to § 563b.13(c) of this Subchapter.

(b) No insured institution which excludes appraised equity capital from its regulatory net worth shall convert pursuant to this Subpart unless resolutions of its board of directors containing the following information and evidencing approval thereof have been filed with the PSA:

(1) An estimate of the available amount of appraised equity capital under § 563.13(c) of this subchapter and the grounds on which the estimate is based; and

(2) A determination not to include the estimated available amount of appraised equity capital in the institution's regulatory net worth pursuant to § 563.13(c), if such inclusion would disqualify the institution for conversion pursuant to this Subpart, and the grounds on which the determination is based.

§ 563b.33 Treatment of net worth certificates.

In determining whether an insured institution qualifies for a supervisory conversion pursuant to this Subpart, the PSA shall not include net worth certificates ("NWCs") in the institution's regulatory net worth other than outstanding NWCs issued in accordance with Part 572 of this Subchapter or NWCs which the Corporation is committed to purchase from the institution under § 572.1(c) of this Subchapter.

Subpart D—Guidelines for Modified Conversions

§ 563b.34 Scope of subpart.

This Subpart establishes guidelines for modified conversions from the mutual to stock form authorized or ordered by the Board under Section 5(p) of the Home Owners' Loan Act of 1933. The provisions of this Subpart are not exclusive and the Board may waive or modify any provision in its sole discretion.

§ 563b.35 Purpose of subpart.

The purpose of this Subpart is to give guidance to insured institutions and potential acquirors of the stock of insured institutions regarding the qualification of insured institutions for a modified conversion under this Subpart, and guidance as to the extent to which the Board will permit, by means of a modified conversion, deviance from the substantive and procedural requirements adopted by the Board for standard conversions under Subpart A of this Part. The guidelines are intended to assist insured institutions and potential acquirors of insured institutions to develop proposals for submission to the Board in seeking the Board's approval for the filing of formal applications for modified conversions pursuant to § 563b.38 of this Subpart.

§ 563b.36 Guidelines for qualification.

(a) The Board may, in its discretion, find that an insured institution qualifies for a modified conversion when the following conditions have been met: (1) The insured institution has contracted to receive assistance from the Corporation under section 406 of the National Housing Act; or (2) the Board determines that (i) severe financial difficulties exist which threaten the stability of the insured institution, and (ii) the conversion to stock form is likely to improve the financial condition of the institution.

(b) The Board may, in its discretion, make the finding set forth in paragraph (a)(2)(i) of this section if: (1) the insured institution does not meet its regulatory net-worth requirement; (2) it has had negative net income, under generally accepted accounting principles, for (i) its last three fiscal quarters, if it has more than two percent net worth; (ii) for two of its last three fiscal quarters, if it has more than one percent net worth; or (iii) one of its last three fiscal quarters, if it has less than one percent net worth; (3) it is demonstrated to the Board's satisfaction that (i) the net proceeds of the sale of conversion stock by the insured institution pursuant to an appraised valuation under Subpart A of this Part would not be sufficient to enable the insured institution to meet its net-worth requirement; or (ii) the net proceeds would not be sufficient to reasonably ensure the financial safety and soundness of the insured institution; or (iii) there would not be a reasonable likelihood that the insured institution could market its stock in a conversion undertaken pursuant to Subpart A of this Part.

§ 563b.37 Substantive guidelines.

(a) All of the provisions of Subpart A and Subpart B of this Part shall apply to a conversion undertaken pursuant to this Subpart unless clearly inapplicable.

(b) The Board may order the conversion to the stock form of a Federally-chartered insured institution under this Subpart without the consent of the institution's members or its board of directors.

(c) The Board may authorize the conversion to the stock form of a state-charter insured institution under this Subpart upon the filing of an application approved by resolution of the majority of the board of directors of the institution, but neither the Board nor the institution would be required to secure the prior approval of the institution's members to the conversion.

(d) An insured institution that has converted to the stock form pursuant to this Subpart is required to establish a liquidation account on behalf of the institution's members as required under § 563b.3(f) of this Part.

(e) An insured institution converting under this Subpart is not required to sell its conversion stock for an amount determined pursuant to an independent appraisal as required in Subpart A and Subpart B of this Part.

(f) The Board may, in its discretion, approve an application for conversion pursuant to this Subpart if it is demonstrated to the Board's satisfaction, through a detailed submission prepared by an independent investment banking firm or other qualified person, that the net capital to be received from the sale by the converting insured institution of its capital stock pursuant to this Subpart: (1) would bring the insured institution into regulatory net-worth compliance, on the basis of generally accepted accounting principles, and (2) would be reasonably sufficient to ensure the financial safety and soundness of the insured institution.

(g) The eligible accountholders, the supplemental eligible accountholders, and the voting members of the insured institution converting pursuant to this Subpart shall be granted subscription rights to purchase all of the stock proposed to be issued by the insured institution, in accordance with the rules and regulations of Subpart A of this Part.

§ 563b.38 Acceptance of test-case applications.

(a) The Board will accept applications under this Subpart D on a test-case basis.

(b) No application may be filed under this Subpart D without the prior written approval of the Corporation.

(c) *Delegation of authority.* The Board delegates to the General Counsel or his designee the authority of the Board under this section.

(Secs. 402, 403, 407, Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-9409 Filed 4-11-83; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 389

[Organization Reg. Amdt. No. 33 to Part 389; Reg. OR-210]

Fees and Charges for Special Services

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is setting a new fee category on its filing fee schedule. It has found that there are a significant number of requests for exemption from the need to obtain approval for acquisitions of control of air carriers. These requests are primarily for the benefit of the applicant, who should be charged a fee. By setting a fee for this category, the Board will remove the uncertainty from the determination of what fee should be charged.

DATES:

Effective: April 7, 1983.

Adopted: April 12, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, 202–673–5442 or Betsy Wolf, Competition Maintenance Division, 202–673–5915, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The Board's fees for filing applications and documents that primarily benefit the applicant are set forth in 14 CFR Part 389. The standards by which the Board

set those fees are set forth in OR–204 (48 FR 635, January 6, 1983) and in Docket 30586.

Section 408 of the Federal Aviation Act of 1958, as amended, requires, among other things, prior Board approval of certain acquisitions of control involving U.S. and foreign air carriers. Persons often ask for exemption from that prior approval requirement for transactions that present no novel or material issue of law or fact. The grant of an exemption enables them to proceed with a transaction as quickly as possible, avoiding time-consuming hearings and other government procedures. The Board thus finds that such exemption requests are primarily for the benefit of the applicant.

The application is filed in the Docket Section, processed, and then sent to the Competition Maintenance Division for initial analysis. The time for the initial analysis is 15 staff house. By using the formula developed in OR–204, the Board sets the fee for this application at $371.

Because this amendment only makes a minor change in the Board's fees, setting up a new fee category that amounts to a lowering of costs to the public, the Board finds that notice and public comment are unnecessary. Further, because this rule relieves a burden on those filing a waiver request by reducing the possible fee that could be charged from $1080 to $371, the Board finds good cause to make this rule effective upon publication in the **Federal Register**.

List of Subjects in Part 389

Archives and records.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 389, *Fees and Charges for Special Services*, as follows:

PART 389—[AMENDED]

1. The authority for Part 389 is:

Authority: Secs. 204, 1002, Pub. L. 85–726, as amended, 72 Stat. 743, 797; 49 U.S.C. 1324, 1502. Act of August 3, 1951, Ch. 376, 65 Stat. 288; 31 U.S.C. 483a.

2. The fee schedule in § 389.25 is amended by adding a category number 47a after number 47 under the title, *Other (U.S. and foreign air carriers)* to read:

§ 389.25 Schedule of processing fees.

* * * * *

Other (U.S. and Foreign Air Carriers)

* * * * *

47 Merger or Acquisition of Control, 1080

—47a Exemption request, 371

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-9619 Filed 4-11-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 651 and 654

Preference in Federal Procurement for Labor Surplus Areas Under Executive Orders 12073 and 10582

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is modifying its regulations for classifying labor surplus areas under Executive Order 12073 and areas of substantial unemployment under Executive Order 10582 in order to change the date of the annual listing of labor surplus areas so that the annual listing will be effective on a fiscal-year basis, to delete references to Defense Manpower Policy No. 4A (DMP–4A), and to revise the complaint procedures.

EFFECTIVE DATE: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Richard C. Gilliland, Director, U.S. Employment Service, 601 D Street, N.W., Washington, D.C. 20213—(202) 376–6289.

SUPPLEMENTARY INFORMATION: The purpose in designating labor surplus areas is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of high unemployment. Under Executive Orders 12073 and 10582, the Secretary of Labor is required to classify labor surplus areas and disseminate this information for the use of all Federal agencies in directing procurement activity and locating new plants or facilities. Employers who agree to perform most of the work in labor surplus areas are eligible for preference in the award of procurement contracts and grants, and the execution of agreements.

The Department of Labor (Department), in this document, amends the regulations for classifying labor surplus areas, to conform the effective date of the annual listing of labor surplus areas to the fiscal year, to delete references to Defense Manpower Policy No. 4A (DMP–4A), and to revise the complaint procedures.

The Department published the proposed amendments for comment on June 1, 1982 (47 FR 23754), with a 30-day comment period. Only one comment was received during this period, recommending that the Department publish the labor surplus areas by zip code. After serious consideration, it was decided not to amend the rule. Zip code boundaries do not coincide with the boundaries of the civil jurisdictions comprising the labor surplus areas.

The current regulations for classifying labor surplus areas in 20 CFR Part 654, Subparts A and B, establish June 1 as the annual date of the eligibility determinations. In order to make the annual listing conform to the fiscal year period, the Department of Labor is amending its regulations to change the annual date of the eligibility determinations to October 1. The amendment simplifies procurement planning by Federal staff and by contractors. The change will become effective October 1, 1983, and will require extending the current listing for four months beyond its scheduled expiration date of May 31, 1983. Under the modifications, the current listing will remain in effect through September 30, 1983, when it will be replaced by the next annual listing of labor surplus areas on October 1, 1983.

Prior to June 23, 1980, the Secretary of Labor had certain duties pursuant to the Federal Emergency Management Agency's Defense Manpower Policy No. 4A (DMP–4A, 32A CFR Part 134, 1979). Effective June 23, 1980, DMP–4A was replaced by DMP–4B in order to recognize Executive Order 12073 and to preserve the mobilization aspects of the labor surplus area program (45 FR 344884, May 23, 1980). Although specific responsibilities had been assigned to the Secretary of Labor under DMP–4A, those responsibilities were not carried over to DMP–4B. Accordingly, the Department of Labor is deleting all references to DMP–4A in its regulations for classifying labor surplus areas.

Section 654.5(b) of the Department's regulations for classifying labor surplus areas indicates that until the end of Fiscal Year 1981, Current Population Survey (CPS) data would be used in classifying civil jurisdictions within those standard metropolitan statistical areas and for central cities for which CPS data were used to determine annual unemployment data prior to January 1, 1978. With the expiration of Fiscal Year 1981, the current § 654.5(b) is being deleted.

Modifications are also being made to § 654.9, concerning the filing of Employment Service-related complaints, in order to reflect the fact that the classification of labor surplus areas no longer involves the Department of

Labor's Regional Offices but is done exclusively in the Department's National Office. As a result, the complaint procedure is being modified to have complaints sent directly to the Assistant Secretary for Employment and Training rather than to a Department of Labor Regional Office. Other minor technical, editorial, and clarifying amendments are made as well.

At the time the proposed rule was published, it was certified, pursuant to 5 U.S.C. 605(b), that the changes would not have significant impact on a substantial number of small entities. The financial and other impact of this regulation is less than specified in Section 1(b) of Executive Order 12291 (46 FR 13193), for designation as a major rule which requires a regulatory impact analysis. Therefore, a regulatory analysis was not prepared for this final rule.

Authority: 41 U.S.C. 10a *et seq.* (29 U.S.C. 49 *et seq.*); E.O. 12073; E.O. 10582, as amended by E.O. 11051 and 12148.

List of Subjects

20 CFR Part 651

Employment, labor.

20 CFR Part 654

Agriculture, Employment, Government procurement, Housing standards, Labor, Migrant labor, Unemployment.

Final Rule

Part 651 and Part 654, Subparts A and B, of Chapter V of Title 20, Code of Federal Regulations are amended as follows:

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

§ 651.9 [Amended]

1. The table of contents for Part 654, Subpart A, in § 651.9, "Consolidated Table of Contents for Parts 651–658," is amended by deleting the reference to "654.2 Description of DMP–4A."; by adding a reference to "654.10 Transition provision."; and by revising the heading for Subpart A to read "Subpart A—Responsibilities Under Executive Order 12073."

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

2. The heading for Subpart A of Part 654 is revised to read as set forth.

Subpart A—Responsibilities Under Executive Order 12073

§ 654.1 [Amended]

3. Section 654.1 is amended by removing from the first sentence therein the phrase "Defense Manpower Policy No. 4A of the Federal Preparedness Agency, General Services Administration (32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas (DMP–4A), and".

§ 654.2 [Removed]

4. Section 654.2 is removed.

§ 654.3 [Amended]

5. Section 654.3 is amended by removing from the first sentence therein the word "also."

§ 654.4 [Amended]

6. Section 654.4 is amended as follows:

a. In paragraph (a)(3) the period after the word "above" is removed and "; or" inserted in lieu thereof.

b. In paragraph (a)(4) the period after the parenthetical phrase is removed and "; or" inserted in lieu thereof.

c. In paragraph (c) the words, "for the purpose of Defense Manpower Policy No. 4A" are removed.

d. In paragraph (d) the date "June 1" is removed and the date "October 1" inserted in lieu thereof.

7. Section 654.5 is revised to read as follows:

§ 654.5 Classification of labor surplus areas.

(a) *Basic criteria.* The Assistant Secretary shall classify a civil jurisdiction as a labor surplus area whenever, as determined by the Bureau of Labor Statistics, the average unemployment rate for all civilian workers in the civil jurisdiction for the reference period is (1) 120 percent of the national average unemployment rate for civilian workers or higher for the reference period as determined by the Bureau of Labor Statistics, or (2) 10 percent or higher. No civil jurisdiction shall be classified as a labor surplus area if the average unemployment rate for all civilian workers for the reference period is less than 6.0 percent.

(b) *Criteria for exceptional circumstances.* The Assistant Secretary, upon petition submitted by the appropriate State employment security agency, may classify a civil jurisdiction as a labor surplus area without regard to the unemployment rate for all civilian workers for the reference period, whenever the civil jurisdiction meets or is expected to meet the unemployment tests established under § 654.5(a) as a result of exceptional circumstances. For purposes of this paragraph, "exceptional circumstances" shall mean catastrophic events, such as natural disasters, plant closings, and contract cancellations expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

§ 654.6 [Amended]

8. Section 654.6 is amended by removing from paragraph (a) the words "and (b)"; and by removing from paragraph (b) the citation "§ 654.5(c)" and inserting in lieu thereof the citation "§ 654.5(b)".

§ 654.7 [Amended]

9. Section 654.7 is amended by inserting at the end thereof the following sentence: "The Assistant Secretary periodically may cause these lists to be published in the **Federal Register.**"

§ 654.8 [Amended]

10. Section 654.8 is amended by removing from the introductory language the words "Defense Manpower Policy No. 4A" and inserting in lieu thereof the words "Executive Order 12073".

11. Section 654.9 is revised to read as follows:

§ 654.9 Filing of complaints.

Complaints alleging that the Department of Labor has violated the labor surplus area regulations should be mailed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, D.C. 20210. Such complaints should include: (a) The allegations of wrongdoing; (b) the date of the incident; and (c) any other relevant information available to the complainant. The Assistant Secretary shall make a determination and respond to the complainant after investigation of the incident. If the complaint is not resolved following this investigation, the Assistant Secretary, at his discretion, may offer, in writing by certified mail, the complainant a hearing before a Department of Labor Administrative Law Judge, provided that the complainant requests such a hearing from the Assistant Secretary within 20 working days of the certified date of receipt of the Assistant Secretary's offer of a hearing.

12. A new § 654.10 is added, to read as follows:

§ 654.10 Transition provisions.

The annual list of labor surplus areas for the period June 1, 1982, through May 31, 1983, shall be extended through September 30, 1983.

13. Section 654.14 is revised to read as follows:

§ 654.14 Filing of complaints.

Complaints arising under Subpart B of this part alleging that the Department of Labor has violated the labor surplus area regulations shall be made pursuant to the procedures set forth at § 654.9 of this part.

Signed at Washington, D.C., this 6th day of April, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-9431 Filed 4-11-83; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 175 and 178

[Docket No. 82F-0267]

Indirect Food Additives: Adhesive Coatings and Components; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-yl]amino]-2,6-di-*tert*-butylphenol as a component of adhesives and pressure-sensitive adhesives. This action responds to a petition filed by the Ciba-Geigy Corp.

DATES: Effective April 12, 1983; objections by May 12, 1983.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 1, 1982 (47 FR 43425), FDA announced that a food additive petition (FAP 2B3644) had been filed by the Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that §175.105 *Adhesives* (21 CFR 175.105), § 175.125 *Pressure-sensitive adhesives* (21 CFR 175.125), and § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-y1]amino]2,6-di-*tert*-butylphenol as a component of adhesives and pressure-sensitive adhesives.

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

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

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 175

Adhesives, Food additives, Food packaging.

21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs.2 01(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelgated to the Bureau of Foods (21 CFR 5.61 as revised February 4, 1983; 48 FR 5251), Parts 175 and 178 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

1. Part 175 is amended:

a. In § 175.105(c)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substance	Limitations
* * * * *	
4-[[4, 6-Bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol (CAS Reg. No. 991-84-4).	
* * * * *	

b. In § 175.125 by adding new paragraph (a)(6) and by revising paragraph (b)(1), to read as follows:

§ 175.125 Pressure-sensitive adhesives.

* * * * *

(a) * * *

(6) 4-[[4, 6-Bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol (CAS Reg. No. 991-84-4) as an antioxidant/stabilizer at a level not to exceed 1.5 percent by weight of the finished pressure-sensitive adhesive.

(b) * * *

(1) Substances listed in paragraph (a)(1), (2), (3), (5), and (6) of this section, and those substances prescribed by paragraph (a)(4) of this section that are not identified in paragraph (b)(2) of this section.

* * * * *

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

2. Part 178 is amended in § 178.2010(b) by adding the third item in the list of limitations for "4-[[4,6-bis[octylthio)-*s*-triazin-2-y1]amino-2,6-di-*tert*-butylphenol", to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substance	Limitations
* * * * *	
4-[[4,6-Bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol (CAS Reg. No. 991-84-4).	For use only: * * * 3. In adhesives complying with § 175.105 of this chapter; and in pressure-sensitive adhesives complying with § 175.125 of this chapter, subject to the limitations noted in that section.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 12, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each

numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective April 12, 1983.

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

Dated: April 1, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-9435 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; 2-Mercaptobenzothiazole Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Combe, Inc., providing for topical use of 2-mercaptobenzothiazole liquid and spray on dogs as an aid in treating hotspots and moist dermatitis and as first aid for scrapes and abrasions.

EFFECTIVE DATE: April 12, 1983.

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

SUPPLEMENTARY INFORMATION: Combe Inc., 1101 Westchester Ave., White Plains, NY 10604, filed a supplemental NADA (5–236) providing for topical use of Sulfodene Medication for Dogs and Sulfodene Spray Medication for Dogs (2-mercaptobenzothiazole) as an aid in treating hotspots and moist dermatitis and as first aid for scrapes and abrasions. The drug was originally approved April 2, 1943. This supplement provided additional effectiveness data and information. Additional safety information was also provided to comply with the 1962 Amendments to the Federal Food, Drug, and Cosmetic Act, and to support addition of the first aid claim. The firm submitted an adequate and well-controlled field investigation in support of the dermatitis claim and an adequate and well-controlled in vivo laboratory study in support of the first aid indication. The Bureau of Veterinary Medicine has granted a waiver from the requirement of an additional clinical investigation for each of the indications, because each of the studies for the separate claims provides evidence of the drug's effectiveness for the other claim. The supplement is approved and the regulations are amended to codify the approval. In addition, the list of sponsors of approved NADA's is amended to provide for this sponsor.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday. Requests for single copies identified by NADA number, sponsor, product, and date of publication, should be addressed to the Docket Management Branch.

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

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs, topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Combe, Inc., 1101 Westchester Ave., White Plains, NY 10604	011509
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
011509	Combe, Inc., 1101 Westchester Ave., White Plains, NY 10604
* * * * *	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 524, by adding new § 524.1376 to read as follows:

§ 524.1376 2-Mercaptobenzothiazole solution.

(a) *Specifications.* The drug contains 1.3 percent 2-mercaptobenzothiazole in a suitable solvent.

(b) *Sponsor.* See 011509 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* Apply twice daily to affected area.

(2) *Indications for use.* For dogs as an aid in treating moist dermatitis and hotspots and as first aid for scrapes and abrasions.

(3) *Limitations.* Clip hair from affected area before applying. If no improvement is seen within 1 week, consult a veterinarian.

Effective date. April 12, 1983.

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

Dated: April 1, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-9394 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Cloprostenol Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayvet Division of Miles Laboratories, Inc., providing for use of cloprostenol sodium injectable in cattle for treatment of certain abnormal genital conditions and in lactating dairy cattle to induce luteolysis for indications currently approved in beef cattle and nonlactating dairy heifers.

EFFECTIVE DATE: April 12, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Bayvet Division of Miles Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, filed supplemental NADA 113-645 for intramuscular use of Estrumate® (cloprostenol sodium) in lactating dairy cattle to induce luteolysis (the functional and morphological regression of the corpus luteum) for terminating unwanted pregnancies and scheduling the estrous cycle to control breeding. The drug is currently approved for intramuscular use in beef cattle and nonlactating dairy heifers to induce luteolysis for the same indications. The supplemental application also seeks approval for use in beef and dairy cattle to treat unobserved (nondetected) estrus, mummified fetuses, and luteal cysts. The supplemental NADA is approved, and the regulations are amended to reflect the approval.

Approval of the application for the use of the drug in lactating dairy cattle required a reevaluation of the human safety data base for the drug because of the expansion of use to a new production class that would involve exposure of people to residues from a new source (milk). But standards prescribed in the agency's "Sensitivity of the Method" document (44 FR 17070; March 20, 1979) were not applied to approval of this supplement. No evidence currently available indicates that the drug and its known or probable metabolites are mutagenic or carcinogenic. The current approval is based on alternative criteria which assure that the product is safe and on factors which justify the equitable treatment of this sponsor who adequately completed drug development testing according to scientific standards existing before March 20, 1979 (48 FR 6361; February 11, 1983).

In addition, in the regulation in 21 CFR 522.460(c)(4) a caution statement contains the term "bronchospasms" rather than the currently required term "bronchiospasms." The regulation is further amended to insert the correct term.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.460 by revising the introductory text of paragraph (c), by revising paragraph (c)(2)(ii), and by changing in paragraph (c)(4) the word "bronchospasm" to read "bronchiospasm", as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.460 Cloprostenol sodium.

* * * * *

(c) *Conditions of use.* For intramuscular use in beef and dairy cattle to induce luteolysis.

(2) * * *

(ii) For terminating unwanted pregnancies from mismatings from 1 week after mating until 5 months after conception, or for treating unobserved (nondetected) estrus, mummified fetus, and luteal cysts.

* * * * *

Effective date. April 12, 1983.

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

Dated: February 25, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-9433 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Hoechst Corp. requesting waiver of the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(m)) to manufacture complete broiler and swine feeds from premixes containing not more than 10 grams of bambermycins per pound.

EFFECTIVE DATE: April 12, 1983.

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

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Agricultural Division, Route 202-206 North, Somerville, NJ 08876, submitted a supplement to its approved NADA 44-759 requesting waiver of the requirements of section 512(m) of the act for manufacturing complete broiler chicken and swine feeds from premixes containing not more than 10 grams of bambermycins per pound. Approval of the 10-gram per pound bambermycins premix was published in the **Federal Register** of August 28, 1979 (48 FR

50328). Waiver of the requirements of section 512(m) of the act for use of premixes containing 0.4 and 2 grams of bambermycins per pound is currently codified at 21 CFR 558.95. The supplement is approved, and the regulations are amended accordingly.

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

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

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

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

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

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

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

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

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

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

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

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

List of Subjects in 21 CFR Part 558

Animal feeds, Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.95 is amended by revising paragraph (d)(1), to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.95 Bambermycins

* * * * *

(d) * * *

(1) Premixes containing 0.4, 2, or 10 grams of bambermycins activity per pound used to make complete broiler or swine feeds containing bambermycins as the sole drug and conforming to paragraph (e)(1) or (2) of this section.

* * * * *

Effective date. This amendment is effective April 12, 1983.

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

Dated: April 5, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-9434 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for I.M.S., Inc., providing for use of 50-gram-per-pound lincomycin premixes in manufacturing 8- and 20-gram-per-pound premixes. The 8- and 20-gram-per-pound premixes are subsequently incorporated into swine feeds that are used for treatment and/or control of dysentery.

EFFECTIVE DATE: April 12, 1983.

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

SUPPLEMENTARY INFORMATION: I.M.S., Inc., 13619 Industrial Rd., Omaha, NE 68137, is sponsor of NADA 133-034 filed in its behalf by the Upjohn Co. The NADA provides for use of 50-gram-per-pound lincomycin premixes in manufacturing 8- and 20-gram-per-pound lincomycin intermediate premixes for subsequent incorporation into complete swine feeds. The feeds are used for control and/or treatment of swine dysentery as provided in 21 CFR 558.325(f)(2). Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Upjohn's approved NADA 97-505. Upjohn has authorized use of the data in NADA 97-505 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the

target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as a Category II supplement which does not require reevaluation of the safety and effectiveness data in the original approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 541.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.325 is amended by revising paragraph (b)(5) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) * * *

(5) Premix levels of 8- and 20-grams-per-pound have been granted to Nos. 017255, 017790, 043733, and 050639 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2)(i), (ii), and (iii) of this section

* * * * *

Effective date. April 12, 1983

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

Dated: March 28, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-9395 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 812

[Docket No. 78N-0400]

Protection of Human Subjects; Investigational Device Exemptions; Conforming Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its investigational device exemption (IDE) regulations to conform them to other agency regulations. FDA also is reinstating in the regulations certain language that was inadvertently omitted or modified in other rulemaking proceedings on protection of human subjects.

EFFECTIVE DATE: April 12, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, National Center for Devices and Radiological Health (HFK-143), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1981 (46 FR 8942 and 8958), FDA adopted two final rules on the protection of human subjects of clinical investigations conducted pursuant to requirements for prior submission to FDA or conducted in support of applications for permission to conduct further research or to market products regulated by FDA. One of those final rules amended 21 CFR Part 50 to establish requirements for informed consent of human subjects involved in research activities that fall within FDA's jurisdiction (46 FR 8942). The other final rule established standards governing the composition, operation, and responsibility of any institutional review board (IRB) that reviews research conducted under FDA regulatory requirements (21 CFR Part 56) (46 FR 8958).

In the amendments conforming Part 812 (21 CFR Part 812) to the provisions of Parts 50 and 56, FDA inadvertently failed to conform the definition of "investigator" in § 812.3(i) to the definition of "investigator" in § 50.3(d). FDA is correcting the oversight by amending § 812. 3(i) to make it consistent with the definition of "investigator" in § 50.3(d).

In addition, after FDA issued the final informed consent and IRB rules, the Health Industry Manufacturers Association (HIMA) pointed out to the agency that, in conforming § 812.35(a) to Part 56, FDA had removed the provision that limited the requirement that a sponsor submit IDE supplements for prior IRB and FDA approval to those situations in which a change or deviation from the investigational plan may affect the scientific soundness of the investigation or the rights, safety, or welfare of the subjects in the investigation. As amended in the January 27, 1981, final rule, § 812.35(a) requires the sponsor to file an IDE supplement in support of any change in an investigational plan or protocol. FDA did not intent to amend the threshold conditions in which a sponsor is required to submit to FDA, or to obtain prior approval from FDA of, a change in an investigational plan. Rather, consistent with the IRB final rule, the agency intended to limit the circumstances in which a sponsor is required to obtain prior IRB approval of a change to those in which the change involves the rights, safety, or welfare of subjects. FDA is revising § 812.35(a) and adding a reference to §§ 56.110 and 56.111 to clarify the agency's intent.

HIMA also pointed out the FDA made a similar omission in the conforming amendment to § 812.150(a)(4), regarding the obligations of investigators. The conforming amendment inadvertently changed § 812.150(a)(4) to require that within 48 hours, an investigator notify the reviewing IRB of any deviation from the investigational plan to protect the life or physical well-being of a subject in an emergency and to require prior approval by the sponsor, and in turn by FDA, for such emergency deviation. FDA did not intend to change either the 5-working-day reporting requirement for emergency deviations by an investigator or the threshold conditions for requiring a sponsor to obtain prior approval of nonemergency changes in or deviations from an investigational plan. The agency intended only to limit the circumstances in which prior IRB approval must be obtained to those that involve the rights, safety, or welfare of subjects. Accordingly, this final rule corrects § 812.150(a)(4).

Finally, in conforming § 812.35(b) to the provisions of Parts 50 and 56, the agency inadvertently removed the last two sentences of § 812.35(b). FDA intended only to eliminate any indication that IRB approval is a precondition to FDA approval (see 21 CFR 56.103(a) and 46 FR 8964, comment 45). The agency did not intend to change the other information that must be included in a supplemental application

in the event that a sponsor wishes to add a new facility to an investigation. FDA also did not intend to change the requirement of prior IRB and FDA approval for such an addition.

Consequently, FDA is reinstating the last two sentences of § 812.35(b), except the requirement that certification of IRB approval be included in the supplemental application. However, the sponsor is required to submit such a certification to FDA before it can begin the new aspect of the investigation. FDA also is substituting the word "facility" for "institution" in the section heading and in the last sentence of the section to avoid any misinterpretation of the current IRB regulations which provide for IRB review of all studies and not just those studies conducted on institutionalized subjects as was the case prior to July 27, 1981, the effective date of the IRB final rule.

Because these are merely clarifying amendments that conform the IDE regulations to other agency regulations and that reinstate certain language that was inadvertently omitted in other rulemaking proceedings, notice, public procedure, and delayed effective date are unnecessary in accordance with 5 U.S.C. 553(b)(B) and (d)(3).

List of Subjects in 21 CFR Part 812

Health records, Investigational device exemptions, Medical devices, Medical device research, Reporting requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 520(g), 701(a), 52 Stat. 1055, 90 Stat. 569–571 (21 U.S.C. 360j(g), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 812 is amended as follows:

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

1. In § 812.3 by revising paragraph (i), to read as follows:

§ 812.3 Definitions.

* * * * *

(i) "Investigator" means an individual who actually conducts a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject, or, in the event of an investigation conducted by a team of individuals, is the responsible leader of that team.

* * * * *

2. By revising § 812.35, to read as follows:

§ 812.35 Supplemental applications.

(a) *Changes in investigational plan.* A sponsor shall: (1) submit to FDA a supplemental application if the sponsor or an investigator proposes a change in the investigational plan that may affect its scientific soundness or the rights, safety, or welfare of subjects, and (2) obtain FDA approval of any such change, and IRB approval when the change involves the rights, safety, or welfare of subjects (see §§ 56.110 and 56.111), before implementation. These requirements do not apply in the case of a deviation from the investigational plan to protect the life or physical well-being of a subject in an emergency, which deviation shall be reported to FDA within 5 working days after the sponsor learns of it (see § 812.150(a)(4)).

(b) *IRB approval for new facilities.* A sponsor shall submit to FDA a certification of any IRB approval of an investigation or a part of an investigation not included in the IDE application. If the investigation is otherwise unchanged, the supplemental application shall consist of an updating of the information required by § 812.20(b) and a description of any modifications in the investigational plan required by the IRB as a condition of approval. A certification of IRB approval need not be included in the initial submission of the supplemental application, and such certification is not a precondition for agency consideration of the application. Nevertheless, a sponsor may not begin a part of an investigation at a facility until the IRB has approved the investigation, FDA has received the certification of IRB approval, and FDA has approved the supplemental application relating to that part of the investigation (see § 56.103(a)).

3. In § 812.150 by revising paragraph (a)(4), to read as follows:

§ 812.150 Reports.

(a) * * *

(4) *Deviations from the investigational plan.* An investigator shall notify the sponsor and the reviewing IRB (see § 56.108(a) (3) and (4)) of any deviation from the investigational plan to protect the life or physical well-being of a subject in an emergency. Such notice shall be given as soon as possible, but in no event later than 5 working days after the emergency occurred. Except in such an emergency, prior approval by the sponsor is required for changes in or deviations from a plan, and if these changes or deviations may affect the scientific soundness of the plan or the rights, safety, or welfare of human subjects, FDA and IRB in accordance with § 812.35(a) also is required.

* * * * *

Effective date. April 12, 1983.

(Secs. 520(g), 701(a), 52 Stat. 1055, 90 Stat. 569–571 (21 U.S.C. 360j(g), 371 (a)).)

Dated: March 24, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-9432 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 2H5352/R541; PH-FRL 2345-4]

Tolerances for Pesticides in Animal Feeds; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the combined residues of the insecticide chlorpyrifos and its metabolite in or on dried sugar beet pulp and sugar beet molasses. This regulation to establish maximum permissible levels for the combined residues of chlorpyrifos in or on the feed commodities was requested, pursuant to a petition, by the Dow Chemical Company.

EFFECTIVE DATE: Effective on April 12, 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: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of August 18, 1982 (47 FR 36015), that announced that the Dow Chemical Company, PO Box 1706, Midland, MI 48640, had submitted feed additive petition 2H5352 proposing to amend 21 CFR 561.98 by increasing the established tolerances for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)] phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on the feed commodities dried sugar beet pulp from 1.0 part per million (ppm) to 5.0 ppm and sugar beet molasses from 3.0 ppm to 15.0 ppm.

There were no comments received in response to the notice of filing.

The scientific data and other relevant material have been evaluated and are discussed in a related document [PP 2F2684/R540], increasing the established tolerances for sugar beet roots and sugar beet tops, appearing elsewhere in this issue of the **Federal Register.**

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*) and is established as set forth below.

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 food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels 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 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1))).

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: April 6, 1983.

James M. Conlon,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore 21 CFR 561.98 is amended by increasing the established tolerances for the commodities dried sugar beet pulp and sugar beet molasses to read as follows:

§ 561.98 Chlorpyrifos.

* * * * *

Feed	Parts per million
* * * * *	
Beets, sugar, pulp (dried)	5.0
Beets, sugar, molasses	15.0
* * * * *	

[FR Doc. 83-9650 Filed 4-11-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 601

Statement of Procedural Rules; Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of statement of procedural rules.

SUMMARY: This document contains miscellaneous amendments to the statement of procedural rules (SPR). The SPR sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service as well as certain rules that apply to the Bureau of Alcohol, Tobacco & Firearms. These amendments update the SPR and make certain changes in the Service's procedure.

DATE: The amendments are effective April 12, 1983.

FOR FURTHER INFORMATION CONTACT: Michel A. Dazé of the Legislation & Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458, not a toll-free number).

SUPPLEMENTARY INFORMATION:

This document contains amendments to the SPR (26 CFR Part 601). The amendments are issued under the authority contained in 5 U.S.C. 301 and 552.

These amendments fall into several categories. A description of the most significant amendments in each category is as follows:

Amendments Reflecting Changes in Procedure

Section 601.105(j)(1) provides that the Service does not reopen any case closed after examination by a district office to make an adjustment unfavorable to the taxpayer, unless specified circumstances exist. This rule is amended to include cases closed after examination by a service center. Section 601.105(j)(2) is amended to provide that the Chief, Examination Division (District Director in streamlined districts), or the Chief, Compliance Division, will approve the reopening of previously examined returns.

Section 601.702(d)(5) is amended to eliminate the requirement that a copy of the abstract and statement for offers covering the liability of $5,000 or more be kept for public inspection at the National Office Freedom of Information Reading Room. The change provides that a copy of the abstract and statement for all accepted offers will be made available for public inspection in the district office (including the Foreign Operations District) having jurisdiction in the area where the taxpayer resides and for exempt organizations, in the key district which has jurisdiction over the particular organization.

Amendments Updating the SPR

Section 601.601(d) is amended to correct the title of the Bulletin Index-Digest System of the Cumulative Bulletins. Section 601.201(r) is amended to reflect that Rev. Proc. 76-34, 1976-2 C.B. 657 (as modified by Rev. Proc. 80-25, 1980-1 C.B. 667), superseded Rev. Proc. 73-7, 1973-13 I.R.B. 33.

Corrective Amendment

A typographical error was made in the 1976 amendments to the Statement of Procedural Rules. Because of this error, two subparagraphs were dropped. This regulation amends § 601.702 by re-adding paragraphs (f) (7) and (8). These paragraphs relate to agreements to pay fees for search and duplication services relating to requests for records, and to the form of payment of those fees.

Executive Order 12291

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Drafting Information

The principal author of these amendments to the Statement of Procedural Rules is Michel A. Daźe of the Legislation & Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the amendments both on matters of substance and style.

Lists of Subjects in 26 CFR Part 601

Administrative practice and procedure, Aged, Alcohol and alcoholic beverages, Arms and munitions, Cigars and cigarettes, Claims, Freedom of Information, Taxes.

PART 601—[AMENDED]

Adoption of Amendments to Statement of Procedural Rules

Accordingly, 26 CFR Part 601 is amended as follows:

Paragraph 1. Section 601.105 is amended by removing "Office of International Operations" in paragraph (j)(1) and adding in its place the words

"service center", and by revising the first sentence of paragraph (j)(2) to read as set forth below.

§ 601.105 Examination of returns and claims for refund, credit or abatement: determination of correct tax liability.

* * * * *

(j) *Reopening of Cases Closed After Examination.* * * *

(2) All reopenings are approved by the Chief, Examination Division (District Director in streamlined districts), or by the Chief, Compliance Division, for cases under his/her jurisdiction. * * *

* * * * *

§ 601.201 [Amended]

Par. 2. Paragraph (r)(1) of § 601.201 is amended by removing "Rev. Proc. 73–7, 1973–13 I.R.B: 33" in the first sentence and adding in its place "Rev. Proc. 76–34, 1976–2 C.B. 657, as modified by Rev. Proc. 80–25, 1980–1 C.B. 667".

Par. 3. Section 601.601 is amended as follows:

1. Paragraph (d)(1) is amended by capitalizing the word "bulletin" in the fifth, sixth, seventh and eighth sentences.

2. Paragraph (d)(2)(ii)(*b*) is amended by revising the second sentence to read as set forth below.

3. Paragraph (d)(2)(iii) is amended by removing the second sentence in paragraph (d)(2)(iii)(*f*) and by adding a new sentence after paragraph (d)(2)(iii)(*f*) to read as set forth below.

§ 601.601 Rules and regulations.

* * * * *

(d) *Publication of rules and regulations* * * *

(2) * * *

(ii) * * *

(*b*) * * * The Bulletin Index-Digest System provides a research and reference guide to matters appearing in the Cumulative Bulletins. * * *

(iii) * * *

(*f*) * * * Procedures affecting taxpayers' rights or duties that relate to matters under the jurisdiction of the Service will be published in the Bulletin.

* * * * *

Par. 4. Section 601.702 is amended as follows:

1. Paragraph (d)(5) is revised to read as set forth below.

2. Paragraph (f) is amended by adding at the end thereof new paragraphs (f) (7) and (8) as set forth below.

§ 601.702 Publications and public inspection.

* * * * *

(d) *Rules for Disclosure of Certain Specified Matters.* * * *

(5) *Accepted Offers in Compromise.* A copy of the Abstract and Statement and the attached narrative report for each accepted offer in compromise with respect to any liability for a tax imposed by Title 26 will be made available for inspection and copying in the following locations: (i) except for Exempt Organizations, in the District Office (including the Foreign Operations District) having jurisdiction over the place in which the taxpayer resides and (ii) for Exempt Organizations, in the key District which has jurisdiction over the particular organization.

* * * * *

(f) *Fees for Services.* * * *

(7) *Agreement to pay.* In order to protect the requester from unexpected fees, all requests for records shall state the agreement of the requester (pursuant to paragraph (c)(3)(viii) of this section) to pay the fees determined in accordance with this paragraph or state the amount which the requester has set as an acceptable upper limit he or she is willing to pay to cover such fees. When such fees are estimated by the Internal Revenue Service to exceed that limit, or when the requester has failed to state a limit and the costs are estimated to exceed $50 and the Internal Revenue Service has not then determined to waive or reduce the fees, a notice will be sent to the requester. This notice will:

(i) Inform the requester of the estimated costs;

(ii) Extend an offer to the requester to confer with Internal Revenue Service personnel in an attempt to reformulate the request in a manner which will reduce the fees and still meet the needs of the requester;

(iii) Ask that the requester enter into a contract for the payment of actual costs determined in accordance with this subparagraph, which contract may provide for prepayment of the estimated costs in whole or in part; and

(iv) Inform the requester that the running of the time period, within which the Internal Revenue Service is obliged to make a determination on the request, has been tolled pending a reformulation of the request or the receipt of advance payment or an agreement from the requester to bear the estimated costs.

(8) *Form of payment.* Payment shall be made by check or money order, payable to the order of the Treasury of the United States or the Internal Revenue Service.

* * * * *

These amendments to the statement of procedural rules are issued under the authority contained in 5 U.S.C. 301 and 552.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-9620 Filed 4-11-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD Regulation 6010.8–R, Amdt. No. 20]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Certified Nurse Practitioners

AGENCY: Office of the Secretary, DOD.

ACTION: Amendment of final rule.

SUMMARY: This amends DOD 6010.8–R (32 CFR Part 199) which implements the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). This amendment implements language contained in Department of Defense Appropriation Act, FY 1982, Pub. L. 97–114, which is continued in Department of Defense Appropriation Act, FY 1983, Pub. L. 97–377. This amendment authorizes CHAMPUS payments to certified nurse practitioners who practice independent of physician supervision.

EFFECTIVE DATE: This amendment is retroactive for covered services and supplies provided by certified nurse practitioners on or after October 1, 1981. This amendment is being published in final form, without a Notice of Proposed Rulemaking. However, for a period of 30 days following the date of the publication of this amendment in the **Federal Register**, we will accept public comments and, when appropriate, will revise the amendment. A notice advising of any revisions prompted by public comments will be published in the **Federal Register** no later than 90 days following the end of the comment period. Written public comments must be received on or before May 12, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Guidice, Policy Branch, OCHAMPUS, Aurora, Colorado 80045, telephone 303–361–3586.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the **Federal Register** on April 4, 1977 (42 FR 17972),

the Office of the Secretary of Defense published its regulation, DOD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

The Fiscal Year 1980 Defense Appropriation Act authorized the Department to reimburse nurse practitioners who provide CHAMPUS covered services independent of physician supervision on an experimental basis. The Fiscal Year 1981 Defense Appropriation Act authorized an extension of the study.

The study was initiated on May 1, 1980. During the period ending October 31, 1981, twenty-nine independent certified nurse practitioners served thirty-eight CHAMPUS patients. They submitted fifty-seven claims for services rendered. The limited number of participants was probably the result of State licensure restrictions.

The nurse practitioners provided a variety of services with the limited office visit representing the most commonly billed procedure. Amounts billed by nurse practitioners were generally lower than amounts billed by physicians for comparable services.

The Senate Report on the DOD Appropriation Bill, 1982, states, in part, that "the Committee believes that since [nurse practitioners] are licensed to perform independently at the State level and since they possess a master of arts degree, a nursing degree, and professional certification, there should be no concern about the possible diminution of quality of care."

The Fiscal Year 1982 Defense Appropriation Act directed that the experimental study be terminated and that CHAMPUS provide for the direct reimbursement of certified nurse practitioners.

The Fiscal Year 1983 Defense Appropriation Act continues the recognition of certified nurse practitioners as CHAMPUS-authorized individual professional providers of care.

Regulatory Flexibility Act

Section 604(a) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-345) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities.

The major impact of these regulations is mandated by Pub. L. 97-114 which recognizes certified nurse practitioners as CHAMPUS-authorized individual professional providers of care. The only flexibility exists in the licensure or certification of the nurse practitioner. The requirements are indicated in these regulations and are applicable uniformly to all affected providers. Although published as a final rule, public comments are solicited which will result in revision of the amendment, when appropriate.

Therefore, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR, Chapter I, is amended, to read as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Section 199.12 is amended by inserting a new paragraph (c)(3)(iii)(*e*) and redesignating the existing paragraph (c)(3)(iii)(*e*) as paragraph (c)(3)(iii)(*f*).

§ 199.12 Authorized providers.

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(e) Certified Nurse Practitioner. (1) Within the scope of applicable licensure or certification requirements, a certified nurse practitioner may provide covered care independent of physician referral and supervision, provided the nurse practitioner:

(*i*) Is a licensed, registered nurse; and

(*ii*) Is specifically licensed or certified as a nurse practitioner by the state in which the care was provided, if the state offers such specific licensure or certification or

(*iii*) Is certified as a nurse practitioner (certified nurse) by a professional organization offering certification in the speciality of practice, if the state does not offer specific licensure or certification for nurse practitioners.

* * * * *

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

April 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83-9466 Filed 4-11-83; 8:45 am]

BILLING CODE 3810-01-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1151

General Statement of Policy; Voting Accessibility Policy

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Statement of policy.

SUMMARY: On March 8, 1983, the Architectural and Transportation Barriers Compliance Board adopted a voting accessibility policy that disabled people are entitled to effective access to voter registration and polling places. With the policy, the Board can then determine how to assist in the development of legislation ensuring effective access for physically handicapped persons to voting places.

EFFECTIVE DATE: This policy statement is effective March 8, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Laurinda Steele, Office of Policy, Planning, and Program Development, Architectural and Transportation Barriers Compliance Board, 330 C Street, S.W., Room 1010, Washington, D.C. 20202, (202) 245-1801, voice or TDD.

SUPPLEMENTARY INFORMATION: Pursuant to Section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended, the Architectural and Transportation Barriers Compliance Board (ATBCB) established at its meeting on March 8, 1983, policy on voting accessibility for persons with disabilities. The policy endorses the concept that disabled persons are entitled to access to voter registration and polling places. With the policy, the Board can then determine how to assist in the development of legislation ensuring effective access for physically handicapped persons to voting places.

List of Subjects in 36 CFR Part 1151

Courts, Federal buildings and facilities, Government procurement, Handicapped, Parking, Transportation.

It is the intent of the ATBCB that the words "where appropriate" in the policy statement refer to the needs of handicapped people, as opposed to the facility. That is, where the regular polling places and processes cannot be made accessible, alternative arrangements be made.

Since this is a general statement of policy of the ATBCB, the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking,

opportunity for public participation, and delay in effective date, are inapplicable. 5 U.S.C. 553.

PART 1151—[AMENDED]

Part 1151 is amended by adding § 1151.5 as follows:

§ 1151.5 Voting accessibility policy.

Disabled people are entitled to effective access to voter registration and polling places. The Board encourages States to provide registration and polling facilities that are accessible to physically handicapped persons, including, where appropriate, providing effective supplemental aids and devices for persons with sensory and mobility impairments.

(29 U.S.C. 792; Pub. L. 93-112 as amended by Pub. L. 95-602)

Dated: April 1, 1983.

Wm. Bradford Reynolds,

Chairperson, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 83-9541 Filed 4-11-83; 8:45 am]

BILLING CODE 4000-07-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83-5; Order No. 492]

Order of the Commission Amending Rules of Practice and Procedure

Issued: April 4, 1983.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: Current Commission rules, 39 CFR 3001.20 and 3001.19a require interested persons seeking to participate in Commission proceedings pursuant to 39 U.S.C. 3624(a) to petition the Commission and obtain a Commission ruling granting intervention. This process is time consuming and inefficent, as almost without exception such requests are non-controversial, and granted without objection. Pursuant to 39 U.S.C. 3603, this order amends these rules to grant participant status automatically, subject to reconsideration for good cause shown.

EFFECTIVE DATE: April 12, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Assistant General Counsel, 2000 L Street, N.W., Washington, D.C. 20268 (telephone: 202/254-3836).

SUPPLEMENTARY INFORMATION: The Postal Rate Commission may not issue a Recommended Decision on requests to change postal rates or mail classifications, or on certain complaints against the Postal Service, "until the opportunity for a hearing on the record under sections 556 and 557 of Title 5 has been accorded to the Postal Service, users of the mails, and an Officer of the Commission who shall be required to represent the interests of the general public." 39 U.S.C. 3624(a). Commission rules presently provide that persons who wish to participate in such a proceeding are to petition to become a party or participant. 39 CFR 3001.20; 3001.19a. Interested persons have no status before the Commission pending action on their petition.

This rule changes that procedure. Interested persons will now be able to file a notice of intervention indicating whether they wish full party or limited participator status. The notice of intervention will enable the filing party to participate immediately in Commission proceedings.

This change has two major benefits. First, it will enable the Commission to more effectively utilize its time and develop a more complete record. The Commission is obligated to issue a Recommended Decision within ten months of initiation of rate requests and certain classification proposals with significant rate impact, 39 U.S.C. 3624(c). Commission proceedings are often extremely complex, and it is difficult to develop a complete record and prepare a comprehensive decision within this time frame. Under present rules, interested persons cannot fully participate in developing the record until after a petition for party status has been granted. This rule will encourage interested persons to file a notice of intervention, and begin discovery, at an early date.

The second major benefit of this proposal is its elimination of largely unnecessary procedural steps. It is clear that Title 39 was drafted to encourage the Commission to hear from a broad spectrum of interests. Only under extraordinary circumstances will the Commission have cause to reject a petition for intervention. Under these circumstances, it is more efficient to allow persons wishing to participate to immediately begin to do so, rather than requiring the filing of numerous individual requests, which require formal, albeit virtually automatic, action by the Commission. This amendment preserves the right of any participant to file an opposition to a notice of intervention, and the Commission retains the right to determine that intervenor status is not appropriate should it be convinced that the Act does not contemplate participation by the particular interest in question.

A notice of proposed rulemaking on this matter was published in the **Federal Register** on January 17, 1983, 48 FR 2393, with comments requested on or before February 18, 1983. The United States Postal Service was the only one to file comments in response to the notice of proposed rulemaking. The Postal Service supports the basic thrust of the proposal and offers several suggestions.

First, the Postal Service suggests that the numerical sequence of our rules for intervention would be more logical if rule 20, Formal Interventions, were followed by the rules relating to other types of participation: Rule 19a, Limited Participation by Persons Not Parties, and rule 19b, Informal Expression of Views by Persons Not Parties or Limited Participators (Commenters). We believe that renumbering as the Postal Service suggests is logical, and we will renumber those rules as 20a and 20b, respectively.

Additionally, the Service suggests minor language changes which reflect current Commission practice. It suggests that notices of intervention need to include the position of the petitioner only to the extent that that position is known, and it suggests that petitions list no more than two persons to receive service. Further, it suggests that a pending opposition to intervention should defer the due date for responses to discovery requests filed by an intervenor. Language adopting each of these suggestions is incorporated in the final rule.

The Postal Service also suggests that there is some confusion on the availability of discovery to limited participators. To remedy this, the Postal Service proposes changing the substance of our rules to prevent limited participators from posing discovery requests. We do not believe that this substantive change is warranted. The Service expresses concern with clarifying our rules, not with any past or potential abuse of discovery privileges by limited participants who are not required to respond to inquiries themselves. The existing rule facilitates participation by those with limited resources. Presiding officers have sufficient authority to assure that due process and fair treatment is accorded to all categories of participants. Therefore, rather than reducing the scope of limited participant status, we have inserted language within amended rule 20a(c) to plainly state the present situation that limited participators are not required to respond to discovery requests.

Another substantive Postal Service suggestion is that a person filing a notice

of intervention after the date fixed for such filing should be restricted to intervention as a limited participant, except in extraordinary circumstances, and for good cause shown, when the Commission could authorize intervention as a full participant. Our present practice protects participants by requiring late intervenors to accept all previous procedural and evidentiary rulings, and we see no merit to this suggestion.

Finally, the Postal Service suggests that there is no reason to require notices of intervention to include a statement of whether petitioner requests a hearing. The Act provides that the Commission shall provide the "opportunity for a hearing," 39 U.S.C. 3624(a), and notices of intervention will be a primary tool for establishing whether a hearing is warranted. Therefore, we shall retain language requiring petitioners to state whether a hearing or conference is desired.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Commission proceedings—participant status.

PART 3001—RULES OF PRACTICE AND PROCEDURE

For the reasons set out above, the Commission revises 39 CFR 3001.20 as follows:

§ 3001.20 Formal intervention.

(a) Who may intervene. A notice of intervention will be entertained in those cases that are noticed for a proceeding pursuant to § 3001.17 from any person claiming an interest of such nature that intervention is allowed by the Act, or appropriate to its administration.

(b) Contents. A notice of intervention shall clearly and concisely set forth the nature and extent of the petitioner's interest in the issues to be decided, including the classifications of postal service utilized by the petitioner giving rise to his interest in the proceeding, and to the extent known, the position of the petitioner with regard to the proposed changes in postal rates, fees, classifications, or services, or the subject matter of the complaint, as described in the notice of the proceeding. Such notice shall state whether or not the petitioner requests a hearing or in lieu thereof, a conference, and whether or not the petitioner intends to actively participate in a hearing. Such petition shall also include on page one thereof the name and full mailing address of no more than two persons who are to receive service of any documents relating to such proceeding.

(c) Form and time of filing. Notices of intervention shall be filed no later than the date fixed for such filing in any notice or order with respect to the proceeding issued by the Commission or its Secretary, unless in extraordinary circumstances for good cause shown, the Commission authorizes a late filing. Notices of interventions shall conform to the requirements of §§ 3001.9 to 3001.11 and shall be served on the Postal Service and the complainant in a complaint proceeding pursuant to § 3001.12.

(d) Oppositions. Oppositions to notices of intervention may be filed by any participant in the proceeding no later than 10 days after the notice of intervention is filed. Pending Commission action, an opposition to intervention shall delay on a day-for-day basis, the date for responses to discovery requests filed by that intervenor.

(e) Effect of intervention. A person filing a notice of intervention shall be a party to the proceeding subject, however, to a determination by the Commission, either in response to an opposition, or sua sponte, that party status is not appropriate under the Act. Intervenors are also subject to the right of the Commission or the presiding officer as specified in § 3001.24 to require two or more intervenors having substantially like interests and positions to join together for purposes of service of documents, presenting evidence, making and arguing motions and objections, cross-examining witnesses, filing briefs, and presenting oral arguments to the Commission or presiding officer. No intervention shall be deemed to constitute a decision that the intervening party has such an interest in the proceeding that he would be aggrieved by an ultimate decision by order of the Commission.

Section 3001.19a is redesignated as 3001.20a and revised as follows:

§ 3001.20a Limited participation by persons not parties.

Notwithstanding the provisions of § 3001.20, any person may appear as a limited participator in any case that is noticed for a proceeding pursuant to § 3001.17, in accordance with the following provisions.

(a) Form of intervention. Notices of intervention as a limited participator shall be in writing, shall set forth the nature and extent of the requestor's interest in the proceeding, shall include the name and full mailing address of up to two persons who are to receive service of documents by the Secretary, and shall be served on the Postal Service (and on the complainant in a complaint proceeding) pursuant to § 3001.12. Except where good cause for late filing is shown, notices of intervention as a limited participator shall be filed not later than the date fixed for the filing of notices of intervention pursuant to § 3001.20(c).

(b) Oppositions. Oppositions to notices to intervene as a limited participator may be filed by any participant in the proceeding no later than 10 days after the notice of intervention as a limited participator is filed.

(c) Scope of participation. Subject to the provisions of § 3001.30(f), limited participators may present evidence which is relevant to the issues involved in the proceeding and their testimony shall be subject to cross-examination on the same terms applicable to that of formal participants. Limited participants may file briefs or proposed findings pursuant to §§ 3001.34 and 3001.35, and within 15 days after the release of an intermediate decision, or such other time as may be fixed by the Commission, they may file a written statement of their position on the issues. The Commission or the presiding officer may require limited participators having substantially like interests and positions to join together for any or all of the above purposes. Limited participators are not required to respond to discovery requests under § 3001.25 through § 3001.28; however, limited participators, particularly those making contentions under 39 U.S.C. 3622(b)(4), are advised that failure to provide relevant and material information in support of their claims will be taken into account in determining the weight to be placed on their evidence and arguments.

§ 3001.20b [Redesignated from § 3001.19b]

Section 3001.19b is redesignated as § 3001.20b.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 83-9545 Filed 4-11-83; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2F2684/R540; PH-FRL 2345-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide chlorpyrifos and its metabolite in or on sugar beet roots and tops. This regulation to establish maximum permissible levels for the combined residues of chlorpyrifos was requested, pursuant to a petition, by the Dow Chemical Company.

EFFECTIVE DATE: Effective on April 12, 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: Jay Ellenberger, Product Manager (PM) 12, Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of June 30, 1982 (47 FR 28451), that announced that the Dow Chemical Company, PO Box 1706, Midland, MI 48640, had submitted pesticide petition 2F2684 to the Agency proposing to amend 40 CFR 180.342 by increasing the established tolerances for the combined residues of the insecticide chlorpyrifos [*O, O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)] phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities sugar beet roots from 0.2 part per million (ppm) to 1.0 ppm and sugar beet tops from 0.05 ppm to 8.0 ppm.

The Dow Chemical Company subsequently amended the petition (47 FR 41854, September 22, 1982) proposing to revise the currently established tolerances for cattle, meat, fat and mbyp at 2.0 ppm to cattle meat (fat basis) at 2.0 ppm. This request was later withdrawn.

There were no comments received in response to the notices of filing.

The scientific data and other relevant material have been evaluated. The toxicological data considered in support of the tolerances included a 2-year rat feeding/oncogenicity study with a no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on red blood cells (RBC) cholinesterase activity and was negative for oncogenic effects at 30 mg/kg (highest dose tested); a dog feeding study with a NOEL of 0.1 (mg)/(kg) of (bw) day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative at 15 ppm (highest dose); a mouse teratology study which was negative at 25 mg/kg; an acute delayed neurotoxicity study which was negative at 100 mg/kg; and a 3-generation reproduction study which demonstrated a NOEL of 1.0 mg/kg/day. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method, gas chromatography, is available for enforcement purposes. No regulatory actions are currently pending against the continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing the tolerances. The established tolerances for residues in fat, meat, meat byproducts of livestock and milk are adequate to cover any secondary residues resulting from this use. Because there are no poultry items involved, there will be no secondary residues in poultry tissue and eggs.

Desirable data which are considered lacking from the petition included a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated December 21, 1982, the petitioner indicated that these studies would be submitted to the Agency by June, 1983. The petitioner has agreed to voluntarily delete the use on sugar beets from the label should the studies be found to exceed the risk criteria for unreasonable adverse effects.

A related document [FAP 2H5353/R541], increasing the established tolerances in or on the feed commodities dried sugar beet pulp, and sugar beet molasses; appears elsewhere in this issue of the **Federal Register.**

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 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.

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: April 6, 1983.

James M. Conlon,

Deputy Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by increasing the established tolerances for the commodities sugar beet roots and tops to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Beets, sugar, roots	1.0
Beets, sugar, tops	8.0
* * * * *	

[FR Doc. 83-9649 Filed 4-11-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-19

[FPMR Amdt. D-81]

Construction and Alteration of Public Buildings; Accommodations for the Physically Handicapped

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: In response to findings of a GAO report, this regulation is amended to change the semiannual reporting of projects to an annual reporting requirement. It also provides for the use of revised GSA Form 2974, Status Report for Federally Funded or Leased

Buildings—Accommodation of Physically Handicapped, which incorporates the reporting aspects of GSA Form 2974A, Accessibility to the Physically Handicapped in Leased Buildings.

EFFECTIVE DATE: April 12, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathleen Fields, Design Management Division (202–566–0038).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this proposal will not be considered a major rule under Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or result in significant adverse effects. The General Services Administration has based all administration decisions underlaying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–19

Federal buildings and facilities, Government property management, and Handicapped.

PART 101–19—[AMENDED]

1. The table of contents for Part 101–19 is amended by revising the heading for § 101–19.4902–2974 as follows:

Sec.

101–19.4902–2974 GSA Form 2974, Status Report for Federally Funded or Leased Buildings—Accommodation of Physically Handicapped.

Subpart 101–19.6—Accommodations for the Physically Handicapped

2. Sections 101–19.607 (a) and (b) are revised to read as follows:

§ 101–19.607 Reporting.

(a) Annually each administering agency shall prepare and submit to the Administrator of General Services reports covering all projects subject to the requirements of this Subpart 101–19.6 for which funds have been appropriated or for which a contract, grant, or loan has been approved (whichever is applicable) and which are still under design or construction, or buildings for which lease contracts have been awarded. Once a project has been reported as being occupied, it need not be included in subsequent reports. Lease projects need to be reported only during the period in which the award was made. All reports should be prepared on GSA Form 2974, Status Report for Federally Funded or Leased Buildings—Accommodation of Physically Handicapped. Interagency reports control number 0031–GSA–AN has been assigned to this report.

(b) The annual reporting period, for purposes of this requirement, ends on the last day of August. Reports will be due on the fifteenth calendar day of the following month. The initial report will cover facilities subject to this reporting requirement during the period from September 1, 1981, through August 31, 1982.

* * * * *

Subpart 101–19.49—Illustrations of Forms

3. Section 101–19.4902(b) is revised to read as follows:

§ 101–19.4902 GSA forms.

* * * * *

(b) Agency field offices may obtain their initial supply of GSA Form 2974, Status Report for Federally Funded or Leased Buildings—Accommodation of Physically Handicapped, November 1981, from General Services Administration (WBRDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency field offices should submit all future requirements to their Washington headquarters office, which will then forward consolidated annual requirements to General Services Administration (ORA) Washington, D.C. 20405.

4. Section 101–19.4902–2974 is revised as follows:

§ 101–19.4902–2974 GSA Form 2974, Status Report for Federally Funded or Leased Buildings—Accommodation of Physically Handicapped.

Note.—The form illustrated in this § 101–19.4902–2974 is filed with the original document and does not appear in this volume.

§ 101–19.4902–2474A [Removed]

5. Section 101–19.4902–2974A is removed.

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

Dated: March 12, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-9495 Filed 4-11-83; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 205

General Administration—Public Assistance Programs; Quality Control System Review Completion Requirements; Correction

AGENCY: Social Security Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule which revised the case sampling under the quality control system of the Aid to Families with Dependent Children (AFDC) program. This final rule was published in the October 19, 1982 **Federal Register** (47 FR 46507). The correction applies to § 205.40(b)(2)(iv)(A) of this rule which is found on page 46510 of the October 19, 1982 **Federal Register.** Section 205.40(b)(2)(iv)(A) requires a State agency to prepare a yearly corrective action plan for reducing its error rates based on the active and negative case samples that it reviewed. While this section identified the categories of active cases to be reviewed, the categories of negative cases (i.e., denials and terminations) were inadvertently omitted. Consequently, we are correcting this oversight by including in this section a list of the negative case actions.

FOR FURTHER INFORMATION CONTACT: Sean Hurley, Division of AFDC Quality Control, 330 C Street, S.W., Washington, D.C. 20201, (202) 245–0976.

Dated: April 6, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

PART 205—[AMENDED]

Accordingly, the Department of Health and Human Services, Social Security Administration, is correcting 45 CFR 205.40(b)(2)(iv)(A) to read as follows:

§ 205.40 Quality control system.

* * * * *

(b) * * *

(2) * * *

(iv) * * *

(A) A corrective action plan for reducing error rates for ineligibility, overpayments, underpayments, improper denials and terminations including an error analysis and profiles of error and non-error cases by August 15 of each year based on findings for

both the active case and negative case samples for the preceding April-September and October-March sample periods.

* * * * *

[FR Doc. 83-9655 Filed 4-11-83; 8:45 am]
BILLING CODE 4190-11-M

LEGAL SERVICES CORPORATION

45 CFR Part 1612

Restrictions on Certain Activities; Correction

AGENCY: Legal Services Corporation.

ACTION: Correction to final rule.

SUMMARY: This is a correction of the amendments to Part 1612 of Legal Services Corporation regulations published in the **Federal Register** on March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Alan R. Swendiman, General Counsel, (202) 272-4010.

In FR Doc. 83-7242, appearing at page 11709 in the **Federal Register** of March 21, 1983, the following correction should be made:

On page 11710, paragraph (b)(1) of § 1612.4 is corrected by adding (1) after § 1612.4(a) in the second line of that paragraph.

Dated: April 6, 1983.

Alan R. Swendiman,

General Counsel Legal Services Corporation.

[FR Doc. 83-9520 Filed 4-11-83; 8:45 am]
BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 83-107]

Amendment of the Commission's Rules concerning the Certification of Documents.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is amending its rules concerning the certification of documents in order to clarify that the Commission's Gettysburg office has delegated authority to certify those Commission documents located in Gettysburg.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Sharon B. Kelley, Office of General Counsel, Federal Communications Commission, Washington, D.C. (202) 632-6990.

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Order

In the matter of amendment of §§ 0.11 and 0.467 of the Commission's rules.

Adopted: March 28, 1983.
Released: April 1, 1983.

By the Commission.

1. Due to the reorganization of the Private Radio Bureau, a number of official Commission documents are now located in Gettysburg, Pennsylvania. The need frequently arises for certifying these documents as true and correct official records of the Commission. In the interest of administrative efficiency, it is appropriate for the Secretary, as the official custodian of all Commission records, to appoint a deputy for purposes of custody and certification of those Commission documents located in Gettysburg, Pennsylvania.[1] To expedite the routine certification of such documents, we are hereby amending Sections 0.11 and 0.467 of the Commission's Rules.

2. In this connection, the deputy will have the authority to certify either: (1) That a document is a true and correct copy of an official Commission record, or (2) that a diligent search for a specified record has been made, and no such record exists. This authority is restricted to those documents located in the Gettysburg Office.

3. Authority for this amendment is contained in Sections 4 (i) and (j); 5(d)(1) and 303(r) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), (j); 155(d)(1); 303(r). Because this amendment is procedural in nature, the prior notice and comment and effective date provisions of the Administrative Procedure Act do not apply. 5 U.S.C. §§ 553(b), (d).

4. Accordingly, IT IS ORDERED that, effective April 1, 1983, §§ 0.11 and 0.467 of the Commission's Rules, 47 CFR 0.11 and 0.467, are amended, as set forth in the attached Appendix.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

[1] Authority for this amendment is contained in Section 5(d)(1) of the Communications Act, 47 U.S.C. § 155(d)(1), which provides that "[w]hen necessary to the proper functioning of the Commission and the prompt and orderly conduct of business, the Commission may, by published rule or order, delegate any of its functions . . . to an individual employee, including functions with respect . . . certifying . . ." *See also* Fed. R. Civ. P. 44 which deals with proof of official records and states in pertinent part that "an official . . . may be evidenced . . . by a copy attested by the officer having the legal custody of the record, *or his deputy*, and accompanied by a certificate that such officer has custody" (emphasis added).

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—[AMENDED]

47 CFR Part 0 is amended as indicated below.

1. The introductory text of § 0.11 is designated as paragraph (a), present (a)-(l) are redesignated as paragraphs (a)(1)-(a)(12), and a new paragraph (b) added to read as follows:

§ 0.11 Functions of the office.

* * * * *

(b) The Secretary is the official custodian of the Commission's documents and shall have authority to appoint a deputy for purposes of custody and certification of documents located in Gettysburg, Pennsylvania.

2. Section 0.467 is revised to read as follows:

§ 0.467 Certified copies.

Copies of documents which are available or made available, for inspection under §§ 0.451-0.465, will be prepared and certified, under seal, by the Secretary, or for documents located in the Commission's Gettysburg, Pennsylvania Office, by his deputy. Requests shall be in writing, specifying the exact documents, the number of copies desired, and the date on which they will be required. The request shall allow a reasonable time for the preparation and certification of copies. The fee for preparing copies shall be the same as that charged by the general duplicating contractor for the same work under contractual arrangements described in § 0.465(a). The fee for certification shall be $1 for each document.

[FR Doc. 83-9551 Filed 4-11-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 1

[FCC 83-108]

Practice and Procedure; Implementation of Pub. L. 97-257; Amendment of Part 1 of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is revising its procedural rules pertaining to forfeiture procedures. The Communications Act of 1934 has been recently amended to dispense with the need to give cable system operators

notice and opportunity to respond before the Commission issues a notice of apparent liability imposing a forfeiture penalty. This amendment to the rules is necessary to bring the forfeiture procedures in agreement with the new statutory provisions.

EFFECTIVE DATE: March 30, 1983.

FOR FURTHER INFORMATION CONTACT: Magalie Floyd, Office of General Counsel, Federal Communications Commission, Washington, D.C. (202) 632-6990.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Order

In the matter of implementation of Pub. L. 97-257; Amendment of § 1.80(d) of the Commission's rules and regulations.

Adopted: March 28, 1983.
Released: March 30, 1983.

By the Commission.

1. The provisions of Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b), authorize the Commission to impose forfeitures on licensees and other holders of Commission authorizations without first, among other measures, issuing a warning and providing the opportunity for comment. Cable system operators are not licensed or authorized by the Commission in the traditional sense.[1] For purposes of Section 503(b), however, the Commission consistently has treated cable system operators in the same manner as licensees and other holders of Commission authorizations.[2]

2. By Pub. L. 97-257, September 13, 1982, the Congress revised Section 503(b)(5) to provide specifically that the Commission may impose forfeitures on cable system operators without first, *inter alia*, issuing a warning and providing the opportunity for comment. Thus, this statute was designed to ratify current Commission practice.

3. *Procedure, § 1.80.* The forfeiture provisions of Section 503(b) of the Act are implemented through § 1.80 of the Commission's Rules, which closely follows the statutory language. Therefore, pursuant to the new statutory provisions, § 1.80 will be amended to make clear that the Commission may impose forfeiture penalties on cable system operators without first, among other measures, issuing a warning and providing the opportunity for comment.

4. The Commission has formulated the amendment described herein to implement, in part, the provisions of Pub. L. 97-257. Therefore, compliance with the notice and comment requirements of the Administrative Procedure Act is unnecessary. 5 U.S.C. 553(b)(B). Further, because this is an amendment of rules relating to agency procedures, compliance with the notice and comment and effective date provisions is not required. 5 U.S.C. §§ 553(b)(B), 553(d).

5. Authority for the action taken herein is contained in Sections 503(b)(5), 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(5), 154, 303(r). Accordingly, it is ordered that, March 30, 1983, § 1.80(d) of the Commission's Rules, 47 CFR 1.80(d), is amended, as set forth in the attached appendix.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 1—[AMENDED]

§ 1.80 [Amended]

47 CFR Part 1 is amended by revising the second sentence of § 1.80(d) to read as follows:

* * * * *

(d) * * * However, a forfeiture penalty may be imposed, if such person is engaged in (and the violation relates to) activities for which a license, permit, certificate, or other authorization is required, or if such person is a cable television system operator.

[FR Doc. 83-9554 Filed 4-11-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 13

[FCC 83-97]

Commercial Radio Operators; Incorporation of New Language Relating to Violations Caused, Aided, or Abetted by Commercial Radio Operators

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending Part 13 of its rules to incorporate new language added by Pub. L. 97-259 relating to violations caused, aided or abetted to commercial radio operators. The Commission is taking this action to provide greater visibility to the new prohibition.

EFFECTIVE DATE: March 25, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Clance, Attorney Advisor, Field Communications Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-7591.

List of Subjects in 47 CFR Part 13

Commercial radio operator's licenses.

Order

In the matter of amendment of Part 13 of the Commission's rules to incorporate new language added by Pub. L. 97-259 relating to violations caused, aided, or abetted by Commercial Radio Operators.

Adopted: March 7, 1983.
Released: March 11, 1983.

By the Commission.

1. On September 13, 1982, Public Law 97-259 amended Section 303(m)(1)(A) of the Communications Act of 1934 authorizing the Commission to suspend the license of any radio operator who has "caused, aided, or abetted the violation of, any Act, treaty, or convention binding on the United States, which the Commission is authorized to administer or any regulation made by the Commission under any such Act, treaty, or convention; . . ." Previously, the Commission could not take administrative action against commercial radio operators who advised, equipped, or otherwise assisted applicants to illegally operate communications facilities.

2. We are adding a rule section to Part 13 which repeats the language in the statute. Doing so provides more visibility to the new prohibition. The Commission previously promulgated similar rules which parallel the other provisions in Section 303(m)(1).[1]

3. Because this rule is in agreement and conformance with the Communications Act of 1934, as amended, we find that prior notice and public procedure are unnecessary. (5 U.S.C. 553(b)(3)(B))

4. Accordingly, IT IS ORDERED, that effective March 25, 1983, Part 13 of Title 47 of the Code of Federal Regulations IS AMENDED, as set forth in the Appendix attached hereto. This action is taken pursuant to Sections 4(i) and 303(r) of

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[1] Cable system operators are required to separately register each system community unit with the Commission.

[2] *See, e.g., Western Arizona CATV,* 49 RR 2d 646 (Cable TV Bureau, 1981.)

[1] See 47 CFR 13.64, 47 CFR 13.65, 47 CFR 13.66, 47 CFR 13.67, 47 CFR 13.68, 47 CFR 13.69, 47 CFR 13.70.

the Communications Act, as amended. (47 U.S.C. 154(i) and 303(r)).

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 13—[AMENDED]

Part 13 of the Rules and Regulations of the Federal Communications Commission, 47 CFR Part 13, is amended as follows:

A new § 13.62 is added:

§ 13.62 Violations; aiding and abetting.

No licensed commercial radio operator shall violate or cause, aid, or abet the violation of any Act, treaty, or convention binding on the United States, which the Commission is authorized to administer, or any regulation made by the Commission under such Act, treaty, or convention.

[FR Doc. 83-9553 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1137

[Ex Parte No. 322 (Sub-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, as corrected at 48 FR 13186, March 30, 1983, the Commission modified its regulations governing the processing of division of revenue proceedings. The correction notice incorrectly changes the section being revised from § 1137.1 to § 1137.5. This notice corrects that number to read § 1137.1.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: In the notice of final rules published at 48 FR 12105, corrected at 48 FR 13186, correct the numbers § 1137.5 to read § 1137.1 wherever it appears, including the reference to that section in the amendatory language in the Appendix. The Commission regrets any confusion caused by the previous correction notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-9532 Filed 4-11-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 71
Tuesday, April 12, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 451

Performance Management System

Correction

In FR Doc. 83-8138, beginning on page 13342 in the issue of Wednesday, March 30, 1983, the last entry in the second column of the table in § 451.205(b)(1) on page 13359 should read, "$2,200 plus .25% of savings over $100,000 up to maximum award of $10,000".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Tomatoes for Processing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to amend the voluntary United States Standards for Grades of Tomatoes for Processing. Color measurement equipment specified in the current standards is no longer in general use. This amendment would revise the color evaluation section to permit color measurement to be determined by the type of electronic device specified in grower-processor contracts.

DATE: Comments must be received on or before May 12, 1983.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: David L. Priester, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5410.

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

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The current U.S. Standards for Grades of Tomatoes for Processing have been in effect since March 1973. These standards were developed to provide the processing industry with inspection procedures for determining the quality of grower deliveries to processors based on two factors: (1) Color measurement by use of a photo-electric instrument (USDA Tomato Colorimeter) or subjective visual color evaluation of individual fruit; and (2) classification of defects. When using the colorimeter, the "Color Evaluation" section of the standards requires that specific procedures be followed for color measurement using only USDA approved equipment.

Since 1973 processors have continued to improve processing equipment and have introduced new manufactured products. This has brought about a need for more flexibility in the type of color measurement equipment than that currently approved for use by the standards.

This proposal would establish basic color measurement requirements with the flexibility necessary to adjust to advances in electronic colorimeter technology and meet the changing needs of the industry. Users of the standards would have the option of using a colorimeter of their choice, without ruling out use of the currently specified instrumentation.

List of Subjects in 7 CFR Part 51

Fresh fruits, Vegetables, and other products (inspection certification and standards).

PART 51—[AMENDED]

Accordingly, the provisions of §§ 51.3310, 51.3311, 51.3312, 51.3313, 51.3314, and 51.3317, U.S. Standards for Grades of Tomatoes for Processing, [7 CFR 38 FR 3390, §§ 51.3310-51.3327] would be amended as follows:

1. Revising § 51.3310 paragraph (a)(1) to read as follows:

§ 51.3310 General.

(a) * * *

(1) Color measurement by use of an electronic colorimeter instrument or subjective visual color evaluation of individual fruit; and,

* * * * *

2. Revising § 51.3311 paragraph (a)(2) (i) and (ii) to read as follows:

§ 51.3311 Category A.

* * * * *

(a) * * *

(2) * * *

(i) Electronic color determination shall be as specified in § 51.3317; or

(ii) Visual color analysis shall be as specified in § 51.3317.

* * * * *

3. Revising § 51.3312 paragraph (a)(2) (i) and (ii) to read as follows:

§ 51.3312 Category B.

* * * * *

(a) * * *

(2) * * *

(i) Electronic color determination shall be as specified in § 51.3317; or

(ii) Visual color analysis shall be as specified in § 51.3317.

* * * * *

4. Revising § 51.3313 paragraph (a)(2) (i) and (ii) to read as follows:

§ 51.3313 Category C.

* * * * *

(a) * * *
(2) * * *
(i) Electronic color determination shall be as specified in § 51.3317; or
(ii) Visual color analysis shall be as specified in § 51.3317.
* * * * *

5. Revising § 51.3314 to read as follows:

§ 51.3314 Culls.

"Culls" are tomatoes which fail to meet the requirements of Category C and, when color evaluation is determined by means of an electronic instrument, includes tomatoes which are completely green.

6. Revising § 51.3317 to read as follows:

§ 51.3317 Color evaluation.

Color may be determined either by an electronic colorimeter or visually.

(a) Electronic color evaluation shall be the color value of a composite raw juice sample. The equipment used in such evaluation shall be properly calibrated, and the type of device and procedures utilized shall be specified in grower-processor contracts. The composite raw juice sample shall be extracted from tomatoes representative of the lot: PROVIDED, that each tomato from which juice is extracted must show a definite change in surface color from green to tannish-yellow, pink, red, or a combination thereof.

(b) Visual analysis requires that each tomato be "fairly well colored" which means that at least two-thirds of the flesh of the tomato has good red color: PROVIDED, that a tomato having flesh of a lighter shade of red shall be considered as "fairly well colored" if a sufficient amount of the flesh has a red color equivalent to that of a tomato with two-thirds good red color.

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

Done at Washington, D.C. on: March 30, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-0624 Filed 4-11-83; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 52

United States Standards for Grades of Canned Sweetpotatoes

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary U.S. Standards for Grades of Canned Sweetpotatoes. The proposed rule was developed by the U.S. Department of Agriculture (USDA) at the request of the canned sweetpotato industry. The proposed rule would: (1) De-emphasize the significance of uniformity of size by basing this factor on the 90 percent, by count, most uniform units; (2) remove the factor of "shape" from "uniformity of size and shape"; (3) establish a style for "whole and pieces"; (4) include pathological or insect injury as part of the definition of blemishes without changing the total of maximum percentages for blemishes declared in the current standards; (5) provide a tolerance for untrimmed tough external fibers; (6) provide a uniform format consistent with other recently revised standards; (7) consolidate into two tables the allowances listing the various quality factors; and (8) incorporate minor editorial changes. The effect of the proposed rule would be to improve the standards and promote orderly and efficient marketing.

DATE: Comments must be received on or before June 13, 1983.

ADDRESS: Interested person are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-6247.

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

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The USDA received a petition from a member of the canned sweetpotato industry, requesting a revision of the U.S. Standards for Grades of Canned Sweetpotatoes with respect to uniformity of size and shape requirements.

The current U.S. Standards for Grades of Canned Sweetpotatoes, dated August 16, 1972, incorporated fill weight procedures and tables to clarify grading of the quality factors of defect, color, and character, and uniformity of size and shape. In the current standards, determination of uniformity of size and shape is based on comparing the second smallest sweetpotato unit to the largest unit, regardless of the size of the container. This criteria is not always equitable since it is much easier to maintain a controlled ratio when there are only six to eight potato units in a small can as compared to 30 to 40 units in a large can. When processing sweetpotatoes under commercial manufacturing conditions, there will be a greater chance that the large can will fail to meet the criteria than a small can.

In this proposal, determining uniformity of size would be based on the 90 percent, by count, most uniform units to eliminate the bias against the larger container when determining this factor. Also this proposal would remove the factor of "shape" from "uniformity of size and shape" since the relative importance of shape is so slight that it is seldom used in grading and is not significant.

This proposed revision of the voluntary grade standards would establish a style for "whole and pieces" since government purchasing agencies buy this style of canned sweetpotatoes. Although the current standards permit the combination of two or more styles (excluding mashed), they do not specifically establish "whole and pieces" as a designated style. This proposal would establish "whole and pieces" as a style and require that not less than 50 percent of the drained weight of the product would consist of whole sweetpotatoes. Other combinations of two or more styles, excluding mashed, would be considered as "mixed" style.

This proposal would include pathological or insect injury as part of the definition applicable to blemishes. This change permits a slight increase in

the tolerance for this defect (from one percent to two percent) but, considered as a blemish, limits the defect to the total of maximum percentages for blemishes declared in the current standards. Also this proposal provides a tolerance for untrimmed tough external fibers of 15 percent, by count, for each sample unit and 5 percent, by count, for a sample (lot) average in grade A. This tolerance would provide uniformity in grading by being objective (percent by count) instead of subjective (no specific tolerance).

Another proposed change would provide a uniform format consistent with revisions made in other U.S. grade standards. The proposed format has been designed to provide industry personnel and agricultural commodity graders with simpler yet comprehensive standards. The five tables in the current standards would be consolidated into two tables.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

PART 52—[AMENDED]

Accordingly, the proposed amendments of Subpart—United States Standards for Grades of Canned Sweetpotatoes (7 CFR 52.2041 through 52.2045 and 52.2050 through 52.2054) would read as follows:

Subpart—United States Standards for Grades of Canned Sweetpotatoes

Sec.

* * * * *

52.2041 Product description.
52.2042 Varietal color types.
52.2043 Styles.
52.2044 Types of pack.
52.2045 Definitions of terms.

* * * * *

52.2050 Recommended sample unit size.
52.2051 Grades.
52.2052 Factors of quality.
52.2053 Requirements for grades.
52.2054 Determining the grade of a lot.

* * * * *

1. The authority citation for Part 52 reads as follows:

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

2. In Part 52, §§ 52.2041 through 52.2045 are revised to read as follows:

§ 52.2041 Product description.

Canned sweetpotatoes is the product as defined in the Standards of Identity for Certain Other Canned Vegetables (21 CFR 155.200) issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.2042 Varietal color types.

(a) Golden.

(b) Yellow.

(c) Mixed. A combination of golden units and yellow units in a sample unit.

§ 52.2043 Styles.

(a) *Whole* means the canned sweetpotatoes have the appearance of being essentially whole or almost whole in that the units retain the approximate shape of whole sweetpotatoes.

(b) *Halves* or *halved* means the canned sweetpotatoes have been cut longitudinally into approximate halves.

(c) *Sections* means the canned sweetpotatoes have been cut transversely into approximate cylindrical units 5 centimeters (2.0 in) or more in length and the diameter of the unit cannot be more than approximately ⅔ of the length.

(d) *Pieces, cuts,* or *cut* means the canned sweetpotatoes have been randomly cut into portions of varying sizes and shapes.

(e) *Mashed* means the canned sweetpotatoes are wholly comminuted or pureed.

(f) *Whole and pieces* means canned sweetpotatoes consisting of a combination of whole and pieces with not less than 50 percent of the drained weight being whole sweetpotatoes.

(g) *Mixed* means any combination of two or more styles excluding mashed style.

§ 52.2044 Types of pack.

(a) *Regular pack* means the product is packed in a liquid packing medium and applies to all styles except "mashed" style.

(b) *Vacuum pack* means the product is packed under conditions creating a high vacuum in the container, in the absence of a packing medium, and applies to all styles except "mashed" style.

(c) *Solid pack* means the product is packed in the absence of a packing medium and applies to "mashed" style only.

§ 52.2045 Definitions of terms.

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

(a) *Blemishes.* (1) *Insignificant blemished unit* means a unit with slight abnormalities, scars, discolorations, or any other imperfections that may affect the appearance slightly but do not affect the edibility of the unit.

(2) *Materially blemished unit* means any sweetpotato unit that has darkened areas (internal or external) or abnormalities including pathological or insect injury that materially affect the appearance or edibility of the unit.

(3) *Seriously blemished unit* means any sweetpotato unit that has darkened areas (internal or external) or abnormalities including pathological or insect injury that seriously affect the appearance or edibility of the unit.

(b) *Character.* (1) *Good character,* in regular pack and vacuum pack, means the sweetpotato units have a uniformly smooth texture, are practically free from internal tough or coarse fibers, and may be slightly variable in tenderness but hold their apparent original conformation. In solid-pack, *good character* means the mass has a smooth texture and is practically free from tough or coarse fibers.

(2) *Reasonably good character,* in regular pack and vacuum pack, means the sweetpotato units have a reasonably uniform smooth texture, are substantially free from internal tough or coarse fibers, may be variable in tenderness, and may be firm to soft but hold their apparent original conformation. In solid-pack, *reasonably good character* means the mass has a reasonably smooth texture which may be slightly grainy and is substantially free from tough or coarse fibers.

(3) *Poor character* means the sweetpotatoes fail to meet the requirements for reasonably good character.

(c) *Color.* (1) *Good color* means a bright color typical of either yellow or golden variety sweetpotatoes but not both. There may be moderate variations of color throughout the sweetpotato unit(s) or mass but not to the extent that the appearance of the product is more than moderately affected.

(2) *Reasonably good color* means that the color is reasonably bright; that both golden and yellow varieties may be present in any amount and there may be considerable variation of color throughout the sweetpotato unit(s) or mass but not to the extent that the appearance of the product is seriously affected.

(3) *Poor color* means the color fails to meet the requirements for reasonably good color.

(d) *Consistency.* Applies to solid pack only.

(1) *Good consistency* means the sweetpotato mass is sufficiently firm to approximate the general shape of the container with some settling permitted; is not dry, and may show no more than a slight separation of free liquid after 2 minutes.

(2) *Reasonably good consistency* means the sweetpotato mass is sufficiently soft so as not to

approximate the general shape of the container, but not free flowing; may be noticeably dry but not hard or rubbery. There may be moderate separation of free liquid after 2 minutes.

(3) *Poor consistency* means the sweetpotato mass fails to meet the requirements for reasonably good consistency.

(e) *Crumbly*, in all styles other than mashed, means sweetpotato units that fall apart readily due to apparent starchiness or dryness.

(f) *Defects.* (1) *Practically free from defects* means the defects present do not materially affect the appearance or edibility of the product.

(2) *Reasonably free from defects* means the defects present do not seriously affect the appearance or edibility of the product.

(g) *Extraneous vegetable material* (EVM) means harmless plant material such as leaves, stems, or roots.

(h) *Firmness.* (1) *Firm* means sweetpotato units that are slightly grainy and possess a somewhat stiff yet yielding texture.

(2) *Very firm* means sweetpotato units that are noticeably grainy or have a hardened texture similar to an uncooked sweetpotato.

(i) *Flavor and odor.* (1) *Good flavor and odor* means distinctive flavor and odor characteristic of properly processed sweetpotatoes (including the packing medium) that are free from objectionable flavors or odors.

(2) *Reasonably good flavor and odor* means that the processed sweetpotatoes may be lacking in good flavor and odor but are free from objectionable flavors or objectionable odors of any kind.

(3) *Off-flavor and odor* means the processed sweetpotatoes fail the requirements of reasonably good flavor and odor.

(j) *Internal tough or coarse fibers*, in character, mean tough, stringy or fibrous material that is objectionable upon eating.

(k) *Mechanically damaged* means any sweetpotato unit damaged during processing.

(l) *Mushy* means sweetpotato units that have materially or completely disintegrated into small pieces or a puree-like consistency with a pulpy or pasty texture.

(m) *Pathological or insect injury* means damage caused by disease or other similar causes that affect the appearance or edibility of the product.

(n) *Peel* means the outer layer of the sweetpotato that is normally removed during processing.

(o) *Pitted unit* means a sweetpotato unit that has external pock marks to the extent that the appearance of the unit is materially affected.

(p) *Sample unit* size means the amount of product specified to be used in grading. It may be:

(1) The entire contents of a container;

(2) A portion of the contents of a container;

(3) A combination of the contents of 2 or more containers;

(4) A portion of unpacked product.

(q) *Secondary rootlets* means rootlets 2.5 centimeters (1.0 in) or longer.

(r) *Softness.* (1) *Soft* means sweetpotato units that are tender but not approaching disintegration.

(2) *Very soft* means sweetpotato units that show slight to partial disintegration and are soft and yielding.

(s) *Uniformity of size.* (1) *Practically uniform in size* means, of the 90 percent (by count) most uniform units, the largest unit does not exceed the weight of the smallest unit by more than a ratio of 3 to 1.

(2) *Reasonably uniform in size* means, of the 90 percent (by count) most uniform units, the largest unit does not exceed the weight of the smallest unit by more than a ratio of 4 to 1.

(3) *Poor uniformity of size* means the sweetpotato units fail the requirements of reasonably uniform size.

(t) *Untrimmed fibrous ends* mean sweetpotato units that have edible (not tough) external fibers protruding more than 7 millimeters (.28 in).

(u) *Untrimmed tough fibrous ends* means sweetpotato units that have tough inedible external fibers.

3. In Part 52, § 52.2050 through 52.2054 are revised to read as follows:

§ 52.2050 Recommended sample unit size.

The requirements for all factors of quality are based on the following recommended sample unit sizes for the respective styles.

(a) All styles other than mashed—1000 grams (35.3 oz) of drained product or the entire drained contents of a container.

(b) Mashed (Solid-pack)—the entire contents of a container.

§ 52.2051 Grades.

(a) *U.S. Grade A* is the quality of canned sweetpotatoes that meets the applicable requirements of Table III or Table IV and scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned sweetpotatoes that meets the applicable requirements of Table III or Table IV and scores not less than 80 points.

(c) *Substandard* is the quality of canned sweetpotatoes that fails to meet the requirements for *U.S. Grade B.*

§ 52.2052 Factors of quality.

The grade of canned sweetpotatoes is based on the following quality factors:

(a) Color;

(b) Uniformity of size (regular pack and vacuum pack);

(c) Consistency (solid pack);

(d) Defects;

(e) Character.

§ 52.2053 Requirements for grades.

TABLE III.—VACUUM PACK; REGULAR PACK

	Grade A	Grade B
Color	Good	Reasonably good.[1]
Score	27–30 points	24–26 points.
Uniformity of size	Practically uniform [2]	Reasonably uniform.[3]
Score	18–20 points	16–17 points.
Defects	Practically free, do not materially affect the appearance or edibility.	Reasonably free,[1] do not seriously affect the appearance or edibility.
Score	27–30 points	24–26 points.

[1] Cannot be graded above U.S. Grade B, regardless of total score. Sample units with quality factors which fail U.S. Grade B, except uniformity of size, cannot be scored higher than Substandard regardless of the total score.
[2] Can have reasonably uniform size if total score is 90 points or more.
[3] Can have poor uniformity of size if total score is 80 points or more.

	Grade A		Grade B	
	Maximum per sample unit	Maximum sample average	Maximum per sample unit	Maximum sample average
Seriously blemished	5 percent by count or 1 unit (whichever is greater).	2 percent by count	10 percent by count or 2 units (whichever is greater).	4 percent by count.
Total blemished (materially and seriously).	15 percent by count	8 percent by count	30 percent by count	15 percent by count.
Units with secondary rootlets 2.5 cm or longer.	15 percent by count	5 percent by count	25 percent by count	10 percent by count.
Extraneous vegetable material	1 piece	1 piece per 3.4 kg (120 ounces).	2 pieces	2 pieces per 3.4 kg (120 ounces).

	Grade A		Grade B	
	Maximum per sample unit	Maximum sample average	Maximum per sample unit	Maximum sample average
Peel per 500 grams	3 cm^3 (0.5 in^3)	2 cm^3 (0.3 in^3)	6 cm^3 (1 in^3)	4 cm^3 (0.6 in^3).
Pitted units	15 percent by count	5 percent by count	100 percent by count	25 percent by count.
Mechanically damaged units	5 percent by count or 1 unit (whichever is greater).	2 percent by count	10 percent by count or 2 units (whichever is greater).	4 percent by count.
Units untrimmed tough fibrous ends	15 percent by count	5 percent by count	25 percent by count	10 percent by count.
Units with untrimmed fibrous ends (edible).	Practically free		Reasonably free	
Character	Good	Good	Reasonably good [1]	
Score	18–20 points		16–17 points	
Very soft	20 percent by count or 2 units (whichever is greater).	10 percent by count	100 percent	100 percent.
Very firm crumbly mushy internal tough or coarse fibers.	10 percent by count or 2 units (whichever is greater).	5 percent by count	20 percent by count or 4 units (whichever is greater).	10 percent by count.
Total score	90–100 points		80–89 points	

[1] Cannot be graded above U.S. Grade B, regardless of total score. Sample units with quality factors which fail U.S. Grade B, except uniformity of size, cannot be scored higher than Substandard regardless of the total score.

TABLE IV.—SOLID-PACK

	Grade A	Grade B
Color	Good	Reasonably good. [1]
Score	27–30 points	24–26 points.
Consistency	Good	Reasonably good. [1]
Score	18–20 points	16–17 points.
Defects	Practically free	Reasonably free. [1]
Score	27–30 points	24–26 points.
Character	Good	Reasonably good. [1]
Score	18–20 points	16–17 points.
Total score	90–100 points	80–89 points.

[1] Cannot be graded above U.S. grade B, regardless of total score. Sample units with quality factors which fail U.S. Grade B cannot be scored higher than Substandard regardless of the total score.

§ 52.2054 Determining the grade of a lot.

The grade of a lot of canned sweetpotatoes covered by these standards is determined by the procedures found in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

Done at Washington, D.C., on March 30, 1983.

Eddie F. Kimbrell,

Deputy Administrator Commodity Services.

[FR Doc. 83-9622 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is amending the Child Care Food Program (CCFP) regulations by (1) revising the CCFP audit requirements to conform to the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015), and (2) outlining the permissible uses of funds available to perform audits in the Program. This action is necessary to conform the CCFP audit requirements with the Uniform Federal Assistance Regulations requirements.

DATE: Comments must be received on or before June 13, 1983 to be assured of consideration in the final rulemaking.

ADDRESS: Comments should be sent to Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written submissions will be available for public viewing in Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Jordan Benderly or Ms. Beverly Walstrom at the address listed above, or call (703) 756-3888.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million, will not cause a major increase in cost or prices for Program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This proposal has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act. Pursuant to the review, the Administrator of the Food and Nutrition Service, has certified that this proposed rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Background

The Child Care Food Program (CCFP) is authorized by Section 17 of the National School Lunch Act, which was amended on August 13, 1981, by Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981. On November 27, 1981, the Department published final rulemaking on the eligibility of Title XX profit making centers to participate in the CCFP, and on June 25, 1982, the Department published final rulemaking which established new rates for administrative reimbursement for sponsors of family day care homes. The Department published final rulemaking on August 20, 1982, implementing the nondiscretionary amendments to the Act created by Pub. L. 97-35.

At this time, the Department is proposing one amendment to the CCFP regulations. This amendment is necessary to ensure that (1) the CCFP audit requirements are in conformance with 7 CFR Part 3015, the Department's

Uniform Federal Assistance Regulations (46 FR 55636) and (2) Program funds available for the conduct of Program audits are properly utilized.

Audit Requirements

Program regulations have required that the State agency provide for audits of institutions participating in the Child Care Food Program. The audits were to be "conducted at least once every two years for each institution." The regulations contained a provision which permitted organization-wide audits of institutions receiving other Federal funds to be counted toward meeting the requirement.

On November 10, 1981, the Department published a final regulation, the Uniform Federal Assistance Regulations (7 CFR Part 3015) in the Federal Register at 46 FR 55636. (The proposed rule was published on July 20, 1981, at 46 FR 37252.) This rule implements OMB Circulars A–102 and A–110, which standardize the administration of grants and cooperative agreements. The rule outlines the principles for determining allowable costs under USDA grants and cooperative agreements as set forth in OMB Circulars A–87, A–21 and A–122. Additionally, the rule establishes uniform audit requirements and policy for State and local governments and Indian Tribal governments that receive Federal assistance from USDA.

This proposal to amend the CCFP regulations is being published in response to the requirements of 7 CFR Part 3015, Subpart I, Audits. The Department is proposing to amend § 226.8 to include the requirement to conduct audits in accordance with 7 CFR Part 3015. Part 3015 requires that, in accordance with OMB Circular A–102, Attachment P, and OMB Circular A–110, recipients and subrecipients of USDA financial assistance must arrange for a financial and compliance audit on at least a biennial basis. Part 3015 also requires that these audits be made on an organization-wide basis, rather than on a grant-by-grant basis. Organization-wide audits are defined in Part 3015 as "an audit which encompasses all financial operations and all funds (regardless of source) of the audited entity, and which will satisfy the needs of all interested parties for audited financial information."

Use of Audit Funds

Section 17 of the National School Lunch Act, as amended, provides funds to be used by State agencies for the purpose of conducting audits of institutions participating in the Program. The amount provided by the Department to each State agency is equal to two percent of the funds used in each State in the CCFP during the second preceding fiscal year. In the past, Program-specific audits were conducted by State agencies for CCFP institutions. Audit funds were utilized by the State agencies for arranging and conducting these audits. However, because of the need to implement the Uniform Federal Assistance Regulations, the Department must give special consideration to how two percent audit monies are used. The Department does not believe that Congress intended Program audit monies to be used to pay for audits that do not cover the CCFP. Furthermore, Section 17(i) of the National School Lunch Act clearly states that the States shall receive funds "for the purpose of conducting audits of participating institutions."

Therefore, it is the Department's interpretation of the statutory provision that two percent audit funds may be utilized in the conduct of organization-wide audits as long as the CCFP is tested in the audit. If for any reason the organization-wide audit does not cover the CCFP, no audit of the CCFP will have been carried out and no money should or could be disbursed by the States to fund the audit. This proposal, therefore, stipulates that State agencies may provide amounts they deem appropriate of two percent audit funds to institutions for organization-wide audits, provided that the audits test the CCFP. States may also continue to use the two percent audit funds for Program-specific audits of institutions in some situations. For example, State agencies may wish to perform Program-specific audits of A–110 nonprofit organizations, for which no Federal agency has been assigned cognizance for audits, and for Title XX proprietary programs which are not covered by the OMB Circular requirements for audits. Organization-wide audits as well as Program-specific audits continue to be counted toward meeting the biennial audit requirement. However, no two percent audit funds may be provided by the State agency to offset the costs of performing organization-wide audits if the CCFP operations of the institution are not tested.

Comments on this proposal should focus on the utilization of two percent audit funds, rather than the implementation of 7 CFR Part 3015, since comments have already been solicited on the Department's Uniform Federal Assistance Regulations and no authority exists for these requirements to be waived in the CCFP.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs, Health, infants and children, Surplus agricultural commodities.

Accordingly, Part 226 is proposed to be amended as follows:

PART 226—CHILD CARE FOOD PROGRAM

Section 226.8 is amended by: revising paragraphs (a), (b), (c) and (d).

§ 226.8 Audits.

(a) Audits at the State and institution levels shall be conducted at least once every two years in accordance with the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015) regarding organization-wide audits.

(b) The funds provided to the State agency under § 226.4(h) may be used to fund organization-wide audits provided that the organization-wide audit includes tests of the Program.

(c) If no organization-wide audit will be conducted during a two-year period, or the organization-wide audit does not include tests of the Program, funds provided under § 226.4(h) may also be used by the State agency to conduct Program-specific audits of the Program operations of institutions.

(d) Funds provided under § 226.4(h) may only be used during the fiscal year for which those funds are allocated. If funds provided under § 226.4(h) are not sufficient to meet the requirements of this section, the State agency may then use available State administrative expense funds to conduct audits, provided that the State agency is arranging for the audits and has not passed the responsibility down to the institutions.

* * * * *

(Sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); Section 10 Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779)).

Dated: April 5, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83–9388 Filed 4–11–83; 8:45 am]

BILLING CODE 3410–30–M

CIVIL AERONAUTICS BOARD

14 CFR Parts 207, 208, 212, 298 and 380

[Econ. Regs., Special Regs. Docket: 40336; EDR-456; SPDR-88]

Charter Trips and Special Services; Terms, Conditions, and Limitations of Certificates To Engage in Charter Air Transportation; Charter Trips by Foreign Air Carriers; Exemption for Air Taxi Operations; Public Charters

Dated: March 24, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing new charter rules for direct and indirect air carriers. The proposed rules retain the financial protections of existing rules for direct air carriers while eliminating many other requirements. They retain a security instrument and depository system for indirect air carriers, along with contract rules for public protection. The proposal replaces one made earlier, and is made at the Board's initiative to achieve the most desirable combination of industry flexibility and public protection.

DATES: Comments by: June 13, 1983. Reply comments by: June 28, 1983.

Comments and other relevant information after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: April 15, 1983.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments to others on the list.

ADDRESS: Twenty copies of comments should be sent to Docket 40336, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

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

SUPPLEMENTARY INFORMATION: By EDR-439/SPDR-88, 47 FR 7443, February 19, 1982, the Board proposed to substantially liberalize and simplify its charter rules for both direct carriers and charter operators (indirect air carriers). The proposal sought comments on replacing the current rules with a new registration and bonding requirement for indirect air carriers or, alternatively, keeping some combination of a bonding and escrow requirement and some or all of the requirements designed to protect participants' expectations. The proposal would have eliminated all filing requirements on indirect carriers and the restrictions on eligible groups and dealings between charter operators and air carriers. The objective was to reduce the rules concerning charters to the minimum necessary for public protection.

Comments and reply comments on the Board's proposal were filed by seven direct air carriers, 20 indirect air carriers (charter operators and one group contractor), an association of indirect air carriers, two banks, the Federal Republic of Germany, the States of Hawaii and New York, the Aviation Consumer Action Project, Thomas A Dickerson, and three other individuals. Transamerica filed a motion for expedited action. The issues addressed by the commenters fall into the following categories: (1) Financial security rules applicable to direct carriers; (2) financial security rules applicable to charter operators; (3) "major change" rules and signature requirements for operator-participant contracts; and (4) prospectus or alternative filing requirements for charter operators, including the requirement that the operator have direct carrier commitments for lift before marketing a charter. Each category is discussed separately below.

Direct carrier financial security. Under the current rule, direct carriers must safeguard passenger funds received for charters with either an unlimited bond or a depository escrow arrangement with a bank. In EDR-439, the Board proposed to eliminate this requirement on the ground that there is no longer any basis to distinguish charters from scheduled service in this respect. Carriers operating scheduled flights do not have to be bonded or place passenger funds in escrow.

The public comments were divided. Direct carriers favored the elimination by a 2-to-1 margin but the indirect carriers opposed it by an equal margin. Consumer-oriented commenters also were opposed. The direct carriers that favored continued regulation of themselves considered it necessary to protect consumers. Several commenters noted that the airlines had established a Default Protection Plan to protect passengers in the event that a carrier operating scheduled service went bankrupt. In their view, this undercut the Board's rationale for the proposed elimination of direct carrier financial security requirements.

Indirect carrier financial security. The current rule requires a charter operator to have either a depository escrow arrangement with a security agreement for $200,000 (less if there are fewer than 20 flights in a year), or a "full" security agreement for one, two, or three times the total air price depending on whether there are ground accommodations involved and, if so, the length of the trips. The security agreement may be a surety bond or surety trust agreement in a form prescribed by the Board, or any arrangement with a bank that provides at least equivalent protection. An indirect carrier is allowed to avoid part or all of the rule by substituting the direct carrier's financial security arrangements.

In SPDR-88, the Board proposed to require no more than a $200,000 security agreement for charter operators. Full security and mandatory escrows would be eliminated. In the alternative, the Board proposed to retain the escrow requirement, in addition to or instead of the security agreement. Direct carriers were evently divided on eliminating the charter operator's escrow. Of the indirect carriers, six favord retention of the current bond-and-escrow requirements, five supported the proposed bond-only approach, and six favored a bond-or-escrow rule. Three urged the Board to eliminate all financial security rules for indirect carriers. Consumer-oriented commenters urged retention of the current bond-and-escrow scheme.

Operator-participant contractual relationship. Certain terms of the operator-participant contract are now prescribed in detail. They limit a charter operator's rights to cancel a charter or to disclaim responsibility for "major changes" (changes in dates, cities, prices, or hotels). A detailed notification and remedy scheme is prescribed for major changes when they do occur. A signature requirement prohibits an operator from accepting money for a prospective participant until that person has signed the contract.

The Board proposed to revoke these rules entirely. In the alternative it proposed to retain some or all of them. Direct carriers favored revoking these rules but a large number of charter operators agreed with the consumer-oriented commenters that the current rules should be retained. Those favoring continued regulation considered it necessary to protect consumers and to preserve the reputation of the charter business. Some expressed concern that elimination of the Board's rules would lead to the adoption of stricter or conflicting rules by the States or the Federal Trade Commission.

Propsectus or other filing requirements. Currently, charter operators cannot begin marketing their charters until at least 10 days after filing a detailed propsectus that includes a flight schedule and certifications that the operator has a contract with a direct carrier and has made financial security arrangements to protect passenger payments. Each prospectus can cover up to 1 year of flights. Foreign charter operators must also register once with the Board so that reciprocity concerns can be addressed.

For U.S. operators, the Board proposed to require only a one-time filing with a certification that it has made financial security arrangements. Foreign operators would combine this with their registration, which would not be changed. There would be no 10-day waiting period. Alternatively, the Board proposed to have no identification filing at all for U.S. operators so as to prevent them from misrepresenting the significance of having filed with the government.

Most commenters supported eliminating the prospectus filing, but almost all agreed that a charter operator should be required to have a binding commitment from a direct carrier for aircraft capacity before beginning to sell to the public. Two States objected to having no identification filing. A few commenters supported periodic registration of charter operators, but most preferred the proposed one-time filing.

Since issuing this proposal, events have occurred that have prompted the Board to reconsider its approach. For one, the level of charter activity has been increasing, with an accompanying rise in problems and complaints.

In addition, the Board is impressed by the reluctance of many commenters, particularly the charter operators who would have been expected to benefit the most from the Board's proposal, to support the sharp reduction of rules in this area. There was strong support for the idea that the existing rules protecting charter participants' funds, and their expectations as embodied in the operator-participant contracts, bolster the industry by maintaining public confidence and preventing damaging defaults. In light of these factors, the Board is now proposing a regulatory scheme for charters that retains more of the features of the current rules to protect passengers, while still eliminating unnecessary regulation.

Changes From Earlier Proposal—In General

The Board is proposing here several changes from the earlier proposal. As in the earlier proposal, the charter rules for direct air carriers would be consolidated in one part—14 CFR Part 212. In the broadest terms, the Board is proposing to retain the basic financial protection scheme that now exists with respect to charter operators: a choice between a bond or other security instrument for the whole price of the charter, or a combination of a bond for $10,000 per charter flight up to a maximum of $200,000 plus a depository account with a bank to hold participants' funds until services are rendered.

This proposed regulatory scheme would also retain the current requirements for direct air carriers' financial protection, by security agreement or depository account. It would, like the earlier proposal, eliminate many of the detailed rules governing relations between charter operators and direct air carriers, and any rules restricting the type of groups (such as the "affinity" or "single entity" concepts) to whom charters may be sold.

The proposal highlights banks' and travel agents' obligations under the present rules: that both parties to depository agreements are liable for knowing participation in nonconforming practices, that sales agents are liable for losses caused by failure to remit funds directly to a depository account, and that a direct air carrier must furnish return transportation for all charter participants who have paid for such transportation. It also clears up uncertainties and coverage gaps: that intermediaries such as "wholesalers" must be either conforming indirect air carriers or agents of air carriers, and that a $200,000 security agreement may not be laterally extended to cover more than one indirect air carrier.

In proposing to eliminate the existing provisions of Parts 207, 208, and 212 dealing with affinity-group ("pro rata") and single-entity charters, the Board has no intention of cutting back the current abilities of those types of groups to participate in charters. The proposed definition of "charter passengers" includes the category, "any groups traveling under a single charter contract," to make it clear that they may be carried on any type of service. The change to a system whereby anything not expressly prohibited is allowed would eliminate the need to describe particular types of charter groups. Any such self-formed group, of any description, would be able under the proposal to purchase charter air transportation in three different ways: from the direct air carrier directly, from an indirect air carrier, or from a travel agent. Only in the case of the indirect air carrier would Part 380 come into play, and then only if the direct air carrier was not taking financial responsibility for the participants, thus making it "public charter air transportation."

At the same time that the proposed rules remove any remaining restrictions on the types of participants or groups that may purchase charter air transportation, they would make it clear that charters may be *sold* only by direct air carriers, indirect air carriers, or agents of direct or indirect air carriers. Each of these seller categories provides financial protection. The Board's general assumption is that affinity-group and single-entity chartes are currently sold by direct air carriers or their agents, so that the financial protection provided is essentially unchanged by this proposal.

Figure 1 shows in diagram form the various ways in which charter and scheduled transportation may be sold.

BILLING CODE 6320-01-M

DAC = Direct Air Carrier
IAC = Indirect Air Carrier

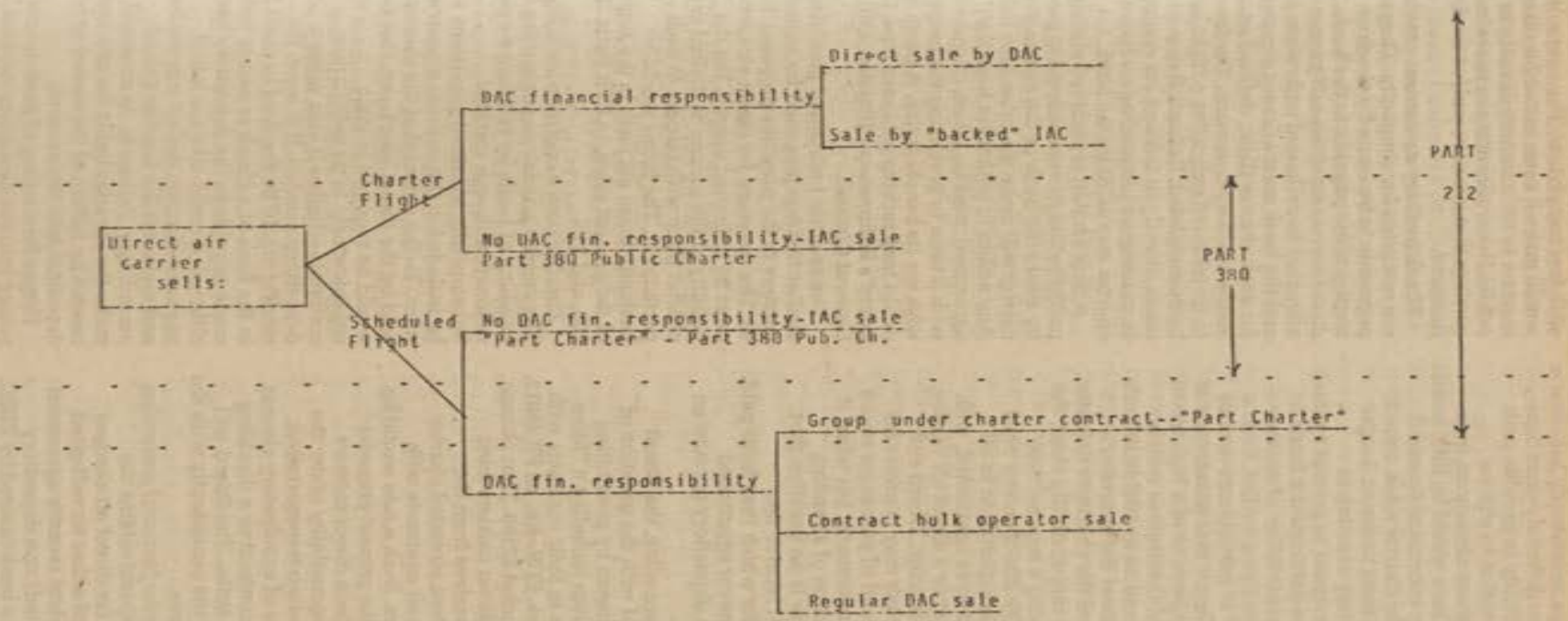

Figure 1

TYPES OF AIR TRANSPORTATION

BILLING CODE 6320-01-C

Direct Air Carrier Requirements—Part 212

General provision. This proposal repeates (§ 212.3) the basic provision of EDR–439, that "certificated carriers and foreign carriers may without limitation operate charter flights, and carry charter passengers or cargo on scheduled or unscheduled flights carrying individually-ticketed or individually-waybilled traffic, subject to the requirements of this chapter and any orders of, or specific conditions imposed by, the Board." As before, the intent of the Board is to provide basic protections for the public, within which framework carriers are free to devise whatever charter arrangements they find desirable. This reverses the current regulatory approach, (14 CFR 207.11, 208.6, 212.3) which limits charters to specific types and prohibits all others.

This proposal would modify the definition in EDR–439 of "charter flight," as "any air transportation other than a flight according to a regular schedule published in a generally distributed scheduled airline guide." The reason for the addition of the schedule-publication criterion is that this proposal, unlike EDR–439, continues the direct carriers' financial protection requirements for charters, so that there will be a sharp difference from scheduled service, especially if a carrier chooses to use a depository account. This proposal continues the exception for nonscheduled flights carrying only individually waybilled cargo by foreign air carriers whose permits authorize only that type of carriage.

Responsibility for return transportation. There have been instances in the recent past where a direct air carrier has questioned whether it must furnish return transportation to passengers, after the charter operator selling the transportation has become insolvent. The question is raised in part because charter operators' contracts with direct carriers often do not coincide with their contracts with participants. Direct carriers evidently often contract by aircraft "rotation," *i.e.*, one out-and-back round trip on successive days. Charter passengers, of course, almost invariably arrange for round trips spanning longer periods of time. If the charter operator defaults on its payments to a direct air carrier, a direct carrier may occasionally attempt to cease all operations on that program, especially if the charter operator failed to specifically contract for the passengers' return, at a time when they are still in the midst of their charter trips at distant points.

The Board has consistently held that a direct air carrier definitely does have such a responsibility to provide such return transportation to charter passengers who are already on their charter trips. There would be little point to the elaborate scheme of financial protection in our charter rules, were it otherwise. The most common danger that the depository account, in particular, is designed to protect against is the use of one participant's funds to pay for the transportation of another—especially of one flying earlier. Such a "forward float" of participants' money poses a great danger that passengers at the end of a program, or of a high travel season, will find themselves with no transportation and no available refunds if sales do not meet the charterer's expectations and the charterer defaults.

To make this responsibility clear, the Board is proposing a new section (§ 212.11) that the direct carrier must furnish return transportation to all passengers who have contracted, with either an indirect or a direct air carrier, for such transportation. Direct and indirect air carriers may contract for "rotations" instead of passenger round trips at their convenience, but when it comes to a question of stranding passengers, there is no question that passengers must receive the transportation for which they have paid. The Board has never sanctioned payment from a depository account on any other basis.

In another proceeding, the Board proposed to deal with the question of stranding passengers by prohibiting direct carriers from including a "force majeure" clause in their contracts with charter operators. EDR–405, 45 FR 46812, July 11, 1980, Docket 37169. That change would prevent direct carriers from exempting themselves from the obligation to return stranded charter passengers in their contracts with charter operators. Such a rule would be unnecessary if the present proposal were enacted, since direct carriers would retain responsibility under the rule to furnish return transportation, regardless either of exculpatory clauses in their charter contract or a disabling event such as a strike. The Board will act in Docket 37169 consistently with the final decision here.

Direct air carrier financial protection options. The proposal retains the present scheme for direct air carriers flying charters, of either an unlimited bond (an equivalent security agreement may be substituted) or a depository agreement with a bank insured by FDIC, FSLIC, or the equivalent. The present system has been in place for many years with few complaints. The new rules would make it even easier for direct air carriers to sell charters directly to the public. Some charters are operated by carriers that are new and/or thinly financed.

The depository agreement provisions are rewritten for simplicity. They require payments to be made by check or money order payable to the bank. The direct carrier must deposit payments allocated to outbound and return flights, and the bank must account separately for each charter flight, defined as a single one-way operation. The funds are to be released only after a flight has been completed. Refunds due are to be made directly to indirect air carriers or to passengers (depending on how the charter was sold) by the bank.

A new section is included stating that participation in nonconforming practices by either the bank or the contracting air carrier will make the other also liable. Any action to withdraw from the agreement must be taken, of course, with a view to protecting the passengers who are its beneficiaries. A party in doubt may receive guidance from the Board's Enforcement Division, Office of General Counsel.

The security instrument provisions are similar to those proposed for indirect air carriers in the previous proposal, SPDR–86. The coverage for direct air carriers must be unlimited overall, but the liability of the securer is limited to the charter price with respect to each participant. The forms would be basically those set forth in the Appendix of the present rules, 14 CFR Parts 207, 208, and 212.

Retailer notice and responsibility. The current provisions concerning the handling of funds by retailers would be retained, although restated. Substantially identical provisions would be included in the indirect air carrier rules. To the extent that the charter was sold by the direct air carrier, that carrier would be required to state conspicuously in its solicitation materials whether it was using a depository account. If it were, the retailer would be required to remit funds in the form of a check or money order made payable to the depository bank, although it could take the initial payment directly, deduct a commission, and make out the remitting check accordingly. Failure to do so would make the remitter liable for any losses caused by failure of the money to be deposited into the account.

Proper forwarding of participants' money into the depository account has always been one of the most important aspects of the protective system. The

only substantive change in this proposal is the requirement of the conspicuous statement of the existence (or not) of a depository account.

Sales through intermediaries. Under the proposed rules, a direct air carrier selling charter transportation through intermediaries would have the option of assuming or not assuming financial responsibility for the passengers' funds. "Assuming financial responsibility" here means seeing that participants who have paid for charter flights are provided either with the transportation or a refund of their money, even if an intermediate seller, i.e., an indirect air carrier, defaults in the interim between payment and departure. If the direct air carrier does not assume this responsibility, that means that the flights are "public charter air transportation" as defined in Part 380, and the intermediate seller must be an indirect air carrier that conforms fully with that part. (This does not affect the direct air carrier's duty to conform to Part 212 for all charter flights with respect to the safeguarding of funds once they are paid to it.)

Thus, the aim of the rules is that in all types of charter sales, the participants' funds are guarded by financial protection provisions—a depository account or a security instrument, or both. To avoid a possible gap in coverage when a direct air carrier sells through an independent intermediary, proposed § 212.16 would deem that carrier to have assumed responsibility unless it has ascertained that the intermediary is an indirect air carrier that has conformed to Part 380. This duty is aided by the requirement of proposed § 380.8(b) that the indirect air carrier give to the direct air carrier a copy of its prospectus, which identifies the type of protection provided and the banks and/or securers involved.

Ground services. Since the Board's mission relates to air transportation, and not travel generally, it has been suggested that the Board should limit its protective coverage to the air transportation portions of charter trips. The Board agrees that it has little intrinsic interest today in overseeing ground services such as hotels, meals, or sightseeing trips, which are furnished identically to travelers regardless of their mode of travel.

The difficulty in disengaging from this area completely arises from the fact that charter operators often offer tour packages in which air transportation and ground transportation are combined with a single price. Since a charter operator typically buys both the air transportation and the ground accommodation "in bulk," if only one retail price is stated for the combination of services the operator is free to allocate the price to the air transportation and the ground services as it pleases. There would be no ready or precise way to know how much of the passenger's payment was paid for air transportation, and hence covered by the financial protection system. To minimize its costs, it might be in a charter operator's interest to understate that portion.

To resolve this problem, the Board proposes to allow ground services to be separated from the protective coverage of these rules, but only if their prices are separately stated in the solicitation materials, and purchasers are free to omit them and deduct those prices from any quoted overall price. This should ensure that the air-only portion of the charter—the part that must be covered by these rules—is fully priced.

Foreign Charter Authorizations. The proposed new rules for foreign charter authorizations would be the same as those proposed in EDR-439. They would require statements of authorizations for long-term wet leases to or by foreign carriers, and for fifth freedom charter flights, part charters, and any other charters by foreign carriers where specifically so ordered by the Board on reciprocity, national security, or other grounds. They would provide procedures for submitting and granting applications for such authorizations.

The existing requirement for prospectus filing by carriers operating foreign-originating charters for foreign charter operators, currently § 380.42, would be retained and, for the sake of consistency, expanded to include U.S. charter operators in Part 212 as § 212.23.

Alaska charters. The proposal contains revised language for the sections (now §§ 207.7 and 208.3(c)) that prohibit the operations of charter flights within the State of Alaska. This is being done to eliminate possible inconsistency between that prohibition and the language of carriers' section 401 certificates authorizing such service. By Show Cause Order 82-12-40, December 9, 1982, the Board proposed to authorize Transamerica Airlines, and any other fit applicant requesting such authority, to operate charter flights within Alaska. The new section will continue the prohibition "unless otherwise specifically authorized by the Board."

Rules for Indirect Air Carriers—Part 380

The Board is hereby proposing to retain in Part 380 substantially the same financial protection system as presently exists, in somewhat simplified form. It calls for either a security instrument covering the whole price of the charter, or a combination of a security instrument for at least $10,000 per flight up to a limit of at least $200,000 plus a depository agreement with a bank for handling charter participants' funds. The protective rules for operator-participant contracts would be largely retained, with some deletions, along with a simplified prospectus-filing requirement, and a requirement that to sell public charters the indirect air carrier must first have a charter contract with a direct air carrier.

Although there was substantial argument on both sides, the Board was impressed with the weight of opinion, especially from the industries directly affected, that the removal of almost all the rules affecting charters, as proposed in EDR-439/SPDR-86, would cause problems that probably would outweigh the benefits. There was a considerable body of opinion that while the financial protection system that has been in place for many years does involve costs, it also returns benefits to the charter industry by providing a modicum of security and stability that maintains the public's confidence. Eliminating most of this system, it was feared, might well lead to some well-publicized defaults and losses that would make charters appear unacceptably risky to much of the traveling public. During the past year there have been several tour operator defaults that would have resulted in larger losses to consumers if it were not for the Board's security and escrow rules.

Part 380 would only apply to situations where the direct air carrier does not accept financial responsibility for protecting the charter participants' funds in the event of default by the indirect air carrier. It would cover transportation sold by independent indirect air carriers on conventional planeload charter flights, or on regularly scheduled flights ("part charters").

Charter prospectus. The basic regulatory mechanism would continue under this proposal to be the charter prospectus, filed with the Board's Special Authorities Division before any selling of charters takes place. The prospectus would contain four basic elements:

1. A joint statement by the indirect air carrier and the direct air carrier that they have a contract to operate the charter flights in question. Unlike the present rule, under this proposal the prospectus would not have to list precise flight dates and itineraries, but only the earliest and latest departure dates—*i.e.*, the inclusive dates covered by the prospectus—along with a list of all the origin and destination points

involved in the contract with the direct air carrier. This would eliminate the need for frequent amendments of the prospectus caused by detail changes in the charter operator's plans.

2. A statement by the indirect air carrier of the type of financial protection that it will use, and if more than one system is used for flights covered by the prospectus, an unambiguous description of the flights covered by each. This may be by flight date, destination, or any other form that leaves no uncertainty as to which system covers which flights.

3. A joint statement by the indirect air carrier and its securer, or each securer if there are more than one, that a security instrument is in effect covering the flights in the prospectus. The rules for security instruments would include a provision that this statement of coverage by the securer will bind the securer to coverage as required by the rules, regardless of any provisions to the contrary in the instrument.

4. If a depository agreement is part of the indirect air carrier's protection system, a joint statement by the indirect air carrier and the depository bank that a depository agreement is in effect covering the charter flights. If more than one bank is involved in the flights covered by the prospectus, a joint statement must be included with each bank, with the flights covered unambiguously identified.

Copies of the prospectus must be furnished by the indirect air carrier to each bank, securer, and direct air carrier involved. Any changes needed to keep the prospectus in conformity with the rules would be filed in the same manner as the original.

Security instrument and depository agreement. The details of the security instrument and depository agreement provisions in the proposed Part 380 are much the same as those discussed above for Part 212 for direct air carriers. There are two additional provisions in the security instrument for indirect air carriers in Part 380. Where an indirect air carrier has a $200,000 bond to cover all its flights, that bond must be limited in its coverage to the charter flights of a single indirect air carrier, defined as either a single corporate or other entity, or a grouping that is wholly owned by a single entity. The reason for this is to correct possible abuses whereby one charter operator's bond is somehow extended to cover the flights of another operator. The $200,000 bond already is minimal coverage for a large operator's charters; the Board had no intent of allowing it to be diluted by having it cover more than one operator's flights. The second provision contained in Part 380 but not 212 is that when the coverage of a $200,000 bond is impaired by a judgment claim against it, the indirect air carrier must discontinue any sales under that bond until it furnished to the Board a new joint statement with a securer that full $200,000 coverage is restored.

The proposed depository agreement provisions are substantially the same as those in proposed Part 212. One additional paragraph in the Part 380 proposal would incorporate a previous interpretation, that the indirect air carrier may if it wishes pay for charter services out of its own funds and leave money in the depository account until the charter is completed, then withdraw the whole amount.

The provision in the current rule (§ 380.34(b)(2)(viii) allowing operators to substitute securities for cash in the escrow account is not included in the proposed rule. Allowing the substitution of securities has tended to weaken passenger protection because their value may suddenly drop. In any event, given the various interest bearing accounts now available from banks, this provision no longer appears to be necessary.

When this proposal was nearing completion, Carefree Vacations, a charter operator, filed a petition for rulemaking in Docket 41279. It noted that the Board first adopted the $200,000 bond requirement in 1971. It argued that, given inflation, this amount was too low and should be doubled. It asked the Board to amend § 380.34(b)(1) to require a charter operator to furnish a bond in an amount of at least $20,000 per flight up to a maximum of $400,000. Transamerica answered arguing that the Board should deny Carefree's petition on the ground that it would increase entry barriers and be inconsistent with deregulation in general and section 401(n)(2) of the Act in particular. In addition, previously, in Docket 40215, the National Air Carrier Association (NACA) had asked the Board to eliminate its bond and escrow rules or, in the alternative, to reduce the required bond to $50,000.

The Board is tentatively inclined to keep the bond at its present level but requests further comments on what the appropriate level should be. The Board is therefore consolidating the Carefree Vacations petition into this rulemaking proceeding.

Multiple enterprises. This proposed provision differs somewhat from the corresponding one in Part 212 for sales through intermediaries. A problem has been encountered in that some indirect air carriers who themselves have conformed to the financial protection requirements of Part 380 may sell charter space through nonagent intermediaries ("wholesalers") whose status under the present rules is not specifically addressed, who may not have conformed to any financial protection requirements, and who therefore pose the risk of loss of purchasers' funds. To counter this, the proposed rules contain a new provision stating that all sales of public charter air transportation must be by the direct air carrier, by an indirect air carrier that has conformed to Part 380, or by an agent of such a direct or indirect air carrier. The section would further state that an indirect air carrier must not sell public charter air transportation through any intermediary other than its own agent, unless it has ascertained that the intermediary is an indirect air carrier that has conformed to Part 380. This provision meshes with the basic provisions of the proposed part that no person may sell such transportation (*i.e.*, flights for which the direct air carrier does not bear financial responsibility to the participants), other than as an agent or a direct carrier, unless it has conformed to Part 380, and places the responsibility on an indirect air carrier to find out about the conformity of its intermediary-buyers.

Charters for particular events. The existing rules have special provisions for "special event charters" and for Super Bowl charters. These are replaced by simpler provisions in the proposal. The point of the special event rules was to allow for a prospectus approval and sales in less than 10 days; this has been permitted by rewording of the prospectus requirement to allow for sales either immediately upon approval or upon the elapsing of 10 days. The Super Bowl rules would be replaced with a broader provision that wherever the main purpose of a charter is attendance at an event, and tickets to it have been purchased as part of the charter, failure to furnish those tickets will require the charter operator to refund the entire charter price, even if transportation has been furnished.

Educational institutions. These proposed rules, like the previous proposal in EDR-439/SPDR-86, do not continue the existing provisions (in effect exemptions) for educational institutions. It appears that with the relaxation of the rules for direct air carriers, under which any groups or institutions may contract with direct air carrier or through travel agents, as well as with indirect air carriers, there is no need or justification for continuing special provisions exempting educational institutions from the requirements for indirect air carriers. If

this creates special problems, any persons affected should describe their situation in detail in their comments.

Operator-participant contract rules. The Board proposes to retain many of the existing rules for operator-participant contracts. The following provisions of the existing rules would be deleted:

Prohibition on specifying alternative flight dates or alternative origin or destination cities (§ 380.31(d)).

Requirements for type size (§ 380.31(e)).

Required space to check for details of trip cancellation, health, or accident insurance (§ 380.31(f)).

Specification of type and capacity of aircraft.

Operator's option plan (§ 380.33a).

In addition, the proposal would delete the provision stating that the operator may condition a refund on the participant's waiving additional remedies. Rather than positively affirming the validity of such conditions, it appears preferable for the Board to take a neutral stance toward them, leaving it to normal legal processes to determine their validity in particular situations.

Although these provisions may have had some usefulness, the Board is of the opinion that they can be dispensed with, as a matter of reducing the number and complexity of charter rules for the future. The Board, and presumably some successor agency, would retain its power to act against unfair or deceptive practices in this as in other areas. The Board specifically invites comments on whether any of the above requirements should be retained, if possible with supporting factual information.

Other provisions. The provisions with respect to ground services and to retailer notice and responsibility are the same as those in Part 212, discussed above. The proposal allows for applications for waiver of the rules to be submitted to the Board's Special Authorities Division. Waivers may be granted on finding that they are in the public interest.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96-354, is designed to ensure that agencies consider flexible approaches to the regulation of small business and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a significant economic impact on a substantial number of small entities.

The analysis is required to describe the need, objectives, legal basis for, and flexible alternatives to the actions proposed here. These requirements are met by the discussion above and in EDR-439/SPDR-86.

In addition, the analysis must include a description of the small entities to which this proposal would apply, the reporting, recordkeeping or other compliance requirements of this proposal, and any other Federal rules that may duplicate, overlap or conflict with it. The proposed rules would relieve restrictions on charter operators, most of which are small businesses, and on direct air carriers, some of which are small businesses. The proposed rules would not impose any additional reporting, recordkeeping, or compliance requirements. There are no other Federal rules that conflict with this proposal.

The Regulatory Flexibility Act also requires agencies to review those of their existing rules that have a significant economic impact on a substantial number of small entities. 5 U.S.C. 610. This rulemaking proceeding constitutes a continuation of that review begun by EDR-439/SPDR-86.

List of Subjects In 14 CFR Parts 207, 208, 212, 298, 380

Advertising, Air carriers, Air taxis, Air transportation—foreign, Antitrust, Charter flights, Consumer protection, Educational study programs, Insurance, Military air transportation, Reporting and recordkeeping requirements, Surety bonds, Travel agents.

Proposed Rule

Accordingly, the Board proposes to amend Title 14 Code of Federal Regulations, as follows:

PARTS 207 AND 208—[REMOVED]

1. Parts 207, *Charter Trips and Special Services*, and 208, *Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation*, would be removed.

2. Part 212, *Charter Trips by Foreign Air Carriers*, would be retitled and revised to read:

PART 212—CHARTER RULES FOR DIRECT AIR CARRIERS

Subpart A—General Provisions

Sec.
212.1 Scope.
212.2 Definitions.
212.3 Charter flights generally.
212.4 Exemptions.
212.5 Charter flights and other special services within the State of Alaska.

Subpart B—Passenger Charters

212.10 Scope of subpart.
212.11 Terms of service.
212.12 Protection of passenger's payments.
212.13 Depository agreement.
212.14 Security instrument.
212.15 Retailer notice and responsibility.
212.16 Sales through intermediaries.
212.17 Ground services.

Subpart C—Foreign Charter Authorization

212.20 Prior authorization requirements.
212.21 Application for authorization.
212.22 Issuance of authorization.
212.23 Foreign-originating charters.

Subpart A—General Provisions

§ 212.1 Scope.

(a) Except as set forth in paragraph (b) of this section, this part applies to all charter flights, and all other flights carrying charter passengers or cargo, in air transportation by certificated carriers or foreign carriers.

(b) This part does not apply to any flights performed by a certificated carrier under Part 298 of this chapter (*Classification and Exemption of Air Taxi Operators*).

§ 212.2 Definitions.

For purposes of this part:

"Bank" means a financial institution insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or any other Federal agency that in effect guarantees the payment of deposits in the bank.

"Certificated carrier" means an air carrier holding a certificate issued under section 401 of the Act, other than an air carrier classified under § 292.1 of this chapter as an "Alaskan air carrier."

"Charter cargo" means cargo carried on a charter flight, and any cargo for which air transportation has been sold by the direct air carrier other than on an individually waybilled basis.

"Charter flight" means any air transportation other than a flight according to a regular schedule listed in a generally distributed scheduled airline guide or timetable, but does not include a nonscheduled flight carrying only individually waybilled cargo by a foreign air carrier whose permit authorizes only nonscheduled cargo carriage.

"Charter passengers" or "passengers" means: (1) Any persons who travel, or contract to travel, on a charter flight or in "public charter air transportation" as defined in § 380.2 of this chapter, or (2) any groups traveling under a single charter contract.

"Direct carrier" means the certificated carrier or foreign carrier that conducts the flight operation.

"Fifth freedom charter" means a charter flight carrying traffic that originates and terminates in countries other than the carrier's home country,

regardless of whether the flight operates via the home country.

"Flight" means a single, one-way aircraft operation, including intermediate stops, if any.

"Foreign carrier" means a foreign air carrier that holds a permit issued under section 402 of the Act or an exemption authorizing direct foreign air transportation.

"Fourth freedom charter" means a charter flight carrying traffic that terminates in the carrier's home country and originates in another country.

"Indirect air carrier" means a person of either U.S. or foreign citizenship that, directly or through one or more intermediaries, sells passenger air transportation, other than as a direct air carrier or as an agent of an air carrier or foreign air carrier.

"Long-term wet lease" means a lease by which the lessor provides both an aircraft and its crew, which either (a) lasts more than 60 days, or (b) is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

"Third freedom charter" means a charter flight carrying traffic that originates in the carrier's home country and terminates in another country.

§ 212.3 Charter flights generally.

Certificated carriers and foreign carriers may without limitation operate charter flights, and carry charter passengers or cargo on scheduled or non-scheduled flights carrying individually-ticketed or individually-waybilled traffic, subject to the requirements of this chapter and any orders of, or specific conditions imposed by, the Board. However, nothing in this section authorizes a foreign carrier to provide interstate or overseas air transportation.

§ 212.4 Exemptions.

(a) Certificated carriers are hereby exempted from section 401(n)(4) of the Act to the extent necessary to allow them to sell or offer for sale charter flights directly to the public, or through agents, or through any other persons authorized by the Board to make such sales regardless of any control relationship between such persons and the air carriers.

(b) Air carriers and foreign air carriers are hereby exempted from section 403 of the Act with respect to charter flights, except as the Board may specifically order to the contrary.

§ 212.5 Charter flights and other special services within the State of Alaska

Unless specifically authorized by the Board, a certificated carrier shall not perform any charter flight or other special service in interstate commerce within the State of Alaska.

Subpart B—Passenger Charters

§ 212.10 Scope of subpart.

This subpart applies only to passenger charters originating or sold in the United States.

§ 212.11 Terms of service.

(a) For charter air transportation sold by an indirect air carrier, the direct carriers shall require payment of the full charter price, including payment for the return portion of a round trip for any passengers who have contracted for a round trip, before beginning any portion of the air transportation.

(b) For all charter air transportation, the direct carrier shall be responsible for furnishing return transportation for any passengers who have contracted for a round trip, according to the terms of the passengers' contract with the indirect air carrier, if any, or with the direct carrier.

§ 212.12 Protection of passenger's payments.

A direct carrier shall not perform any charter service unless it has in effect, and satisfies all the provisions of, either a depository agreement in accordance with § 212.13, or a security instrument in accordance with § 212.14, covering that charter.

§ 212.13 Depository agreement.

A depository agreement that satisfies the requirements of § 212.12 shall have the following characteristics:

(a) The agreement shall be between the direct carrier and a bank.

(b) The direct carrier shall require all payments for charter transportation, whether sold by an indirect air carrier, the direct carrier, or an agent, to be made by check or money order payable to the bank. A travel agent may accept payment to it by a purchaser, deduct its commission, and then remit the balance to the bank in the form specified above.

(c) The direct carrier shall deposit in or mail to the bank all payments it receives not later than the second business day after the carrier receives them.

(d) At the time of deposit the direct carrier shall allocate all payments to the flights, both outbound and return, for which they were made. The bank shall maintain a separate accounting for each flight.

(e) The bank shall pay over to the direct carrier the deposited funds with respect to a specific flight only after the carrier has certified in writing to the bank that the flight has been completed.

(f) If a charter is canceled, or if a passenger or indirect air carrier withdraws from the charter, the bank shall refund deposited funds directly to the indirect air carrier, if any, or to the passenger in the case of sale by the direct carrier or its agent, upon written notification by the direct carrier of the cancellation or withdrawal. The direct carrier in such cases shall furnish to the bank the names and addresses of the indirect air carriers and passengers to whom the funds should be sent, not later than 7 days after the event giving rise to the refund. If under the terms of the charter contract the direct carrier is entitled to retain a penalty, the bank shall pay over the amount of the penalty to the direct carrier upon its presentation of the relevant contract terms and the notice by the canceling or withdrawing parties.

(g) Either party to the depository agreement shall be liable for losses to the purchasers of air transportation caused by its participation in procedures that do not conform to the agreement and to this part. Such participation shall in addition be a violation of this part. Either party shall be considered to participate in nonconforming procedures if it is aware, or should be aware, that these rules are not being followed by the other party.

§ 212.14 Security instrument.

(a) A security instrument that satisfies the requirements of § 212.12 shall be either—

(1) A bond issued by a company listed in *Best's Key Rating Guide, Property-Casualty* with a general policyholders' rating of "A" or better, in the form set forth in Appendix A.

(2) A surety trust agreement issued by a bank in the form set forth in Appendix B; or

Note.—Under this proposal Appendix A would be substantially the same as Appendix A of the present 14 CFR Part 207, and Appendix B would contain the same substantive provisions, but be in form similar to Appendix E of the present 14 CFR Part 380.

(3) Another instrument (*e.g.*, insurance, letter of credit, or an industry fund) approved by the Board as providing substantially equivalent protection.

(b) The security instrument shall in effect require the securer to pay each purchaser of charter air transportation any amount of money, not to exceed that person's charter price, that is determined by the securer or adjudged by a court of competent jurisdiction to be due from the direct carrier to that person because of failure to refund the

money or provide the transportation for which the money was paid.

(c) A direct carrier security instrument shall not have a coverage limit.

(d) The security instrument shall allow each purchaser of charter air transportation at least 60 days after the termination of a charter to make claims against the direct carrier, or if it is unavailable, against the securer. Termination of a charter means the date of arrival (or in the case of a canceled charter, the intended date of arrival) of the last flight for which the purchaser has contracted.

(e) Any securer that enters into a security agreement with a direct carrier that ostensibly is intended to satisfy the requirements of this part shall be deemed to have agreed to provide the coverage described in this section, notwithstanding any terms of the security instrument that purport to lessen the protection provided. Failure by the securer to make payment as specified by paragraph (b) of this section shall be a violation of this part.

§ 212.15 Retailer notice and responsibility.

(a) In any brochures and other descriptive materials issued by the direct air carrier concerning its charters, a direct carrier shall give conspicuous notice of whether it is using a depository agreement to protect purchasers' funds.

(b) In any case where the direct carrier had indicated that it is using a depository agreement, every person, including a travel agent, selling charter flights for the direct carrier shall ensure that money paid for the charters is remitted in the form of a check or money order made payable to the depository bank. (A travel agent may deduct commissions as specified in § 212.13(b).) Any person that causes the remittance of money in any other form shall be liable to the purchaser of transportation for any losses, up to but not more than the charter price to the purchaser, arising from the failure of the money to be placed in the depository account.

§ 212.16 Sales through intermediaries.

A direct air carrier that sells charter flights through an intermediary (*i.e.*, any person other than a charter passenger) shall be deemed to have assumed financial responsibility to the passengers involved for their charter trips unless it ascertains that the intermediary is an indirect air carrier that has conformed to the requirements of Part 372 or 380 of this chapter.

§ 212.17 Ground services.

Ground services during the period of a charter that are sold by the direct air carrier, or by another person for which the direct air carrier has financial responsibility, may be excluded from the coverage of this part (*i.e.*, not included as part of the charter) only if their prices to the passengers in question are separately stated in the pertinent solicitation materials, and the passengers are free to omit those services and deduct those stated prices from the total price of the charter.

Subpart C—Foreign Charters

§ 212.20 Prior authorization requirements.

(a) A certificated carrier or foreign carrier shall not perform any charter flight, or any scheduled air service flight carrying charter passengers (hereafter "part charter"), for which a statement of authorization is required until one has been granted by the Board.

(b) Certificated carriers shall obtain a statement of authorization for each long-term wet lease to a foreign carrier.

(c) Foreign carriers shall obtain a statement of authorization for each—

(1) Fifth freedom charter flight to or from the United States,

(2) Long-term wet lease to a certificated carrier or foreign carrier,

(3) Charter flight for which the Board specifically requires prior authorization under paragraph (e) or (f) of this section, or

(4) Part charter.

(d) The Board may issue blanket statements of authorization to foreign carriers to conduct fifth freedom charters or part charters. The standards for issuing such blanket authorizations shall be those stated in § 212.22. The Board may revoke any authority granted under this paragraph at any time without hearing.

(e) The Board may at any time, with or without hearing, but with at least 30 days' notice, require a foreign carrier to obtain a statement of authorization before operating any charter flight. In deciding whether to impose such a requirement, the Board will consider (but not be limited to considering) whether the country of the carrier's nationality—

(1) Requires prior approval for third or fourth freedom charter flights by U.S. air carriers,

(2) Has, over the objection of the U.S. Government, denied rights of a U.S. air carrier guaranteed by a bilateral or multilateral agreement, or

(3) Has otherwise impaired, limited, or denied the operating rights of U.S. air carriers, or engaged in unfair, discriminatory, or restrictive practices with respect to air transportation services to, from, through, or over its territory.

(f) The Board, in the interest of national security, may require foreign airline(s) to provide prior notification or to obtain a statement of authorization before operating any charter flight over U.S. territory.

§ 212.21 Application for authorization.

(a) Application for a statement of authorization shall be submitted on CAB Form 433 (Appendix C), except that for part charters or long-term wet leases the application may be in letter form. An application for a long-term wet lease shall describe the purpose and terms of the wet lease agreement. Applications shall be submitted in three copies to the Civil Aeronautics Board, addressed to the Director, Bureau of International Aviation. Upon a showing of good cause, the application may be transmitted by cablegram or telegram or may be made by telephone.

(b) A copy of the application for a long-term wet lease to a certificated carrier or foreign carrier shall also be served on the Federal Aviation Administration, addressed to the Director of Flight Operations, and on each certificated carrier that is authorized to serve the general area in which the proposed transportation is to be performed.

(c) The application shall include documentation to establish the extent to which the foreign country involved deals with U.S. air carriers on the basis of reciprocity for similar flights, if such flights are not subject to a bilateral agreement and—

(1) The Board has not established that the country accords reciprocity,

(2) The Board has found reciprocity defective in the most recent prior approval application involving the country, or

(3) Changes in reciprocity have occurred since the most recent Board finding for the country in question.

(d)(1) Applications shall be filed at least 5 business days before commencement of the proposed flight, except as specified in paragraphs (d)(2), (d)(3), and (d)(4) of this section. Late applications may be considered by the Board upon a showing of good cause for the lateness.

(2) Applications for a part charter or for a long-term wet lease to a certificated carrier or foreign carrier shall be filed at least 45 calendar days before the date of the first proposed flight.

(3) Applications specifically required under § 212.20(e) shall be filed at least 30 calendar days before the proposed flight (10 calendar days for cargo charters), unless otherwise specified by the Board.

(4) Applications required by a Board order under § 212.20(f) shall be filed at least 14 calendar days before the proposed flight, unless otherwise specified by the Board.

(5) Where an application is required by more than one provision of this part and/or order of the Board, only one application need be filed, but it must conform to the earliest applicable filing deadline.

(e)(1) Any party in interest may file with the Director, Bureau of International Aviation, a memorandum supporting or opposing an application. Three copies of each memorandum shall be filed within 7 business days after service of the application, before the date of the proposed flight or whichever is earlier. Memoranda will be considered to the extent practicable; the Board may act on an application without waiting for supporting or opposing memoranda to be filed.

(2) Each memorandum shall set forth the reasons why the application should be granted or denied, accompanied by whatever data, including affidavits, the Board is requested to consider.

(3) A copy of each memorandum shall be served on the certificated carrier or foreign carrier applying for approval.

(f)(1) Unless otherwise ordered by the Board, each application and memorandum filed in response will be available for public inspection at the Regulatory Affairs Division of the Bureau of International Aviation immediately upon filing. Notice of the filing of all applications will be published in the Board's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Board finds that disclosure of all or part of the information would adversely affect the objecting person, and that the public interest does not require disclosure, it will order that the injurious information be withheld.

§ 212.22 Issuance of authorization.

(a) The Board will issue a statement of authorization if it finds that the proposed charter flight, part charter, or wet lease meets the requirements of this part and that it is in the public interest. Statements of authorization may be conditioned or limited.

(b) In determining the public interest the Board will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party.

(2) The extent to which the carrier's home country (and, in the case of a long-term wet lease, the lessee's home country) deals with United States air carriers on the basis of substantial reciprocity.

(3) Whether the applicant or its agent has previously violated the provisions of this part.

(4) Where the application concerns a long-term wet lease—

(i) Whether the lessor (applicant) or its agent or the lessee (charterer) or its agent has previously violated the provisions of Parts 207, 208, 212 or 218 of this chapter.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral or multilateral agreement.

(iii) To what extent the lessor owns and controls, the lessee, or is owned and controlled by the lessee.

(c) The Board will submit any denial of an authorization specifically required under § 212.20(e) to the President of the United States at least 10 days before the proposed departure. The denial will be subject to stay or disapproval by the President within 10 days after it is submitted. A shorter period for Presidential review may be specified by the Board where the application for authorization is not timely or properly filed. Denial of a late-filed application need not be submitted to the President. For the purposes of this paragraph, an application for a cargo charter will be considered as timely filed only if it is filed at least 30 calendar days before the proposed flight, notwithstanding the 10-day filing requirement for cargo charters in § 212.21(d)(3).

(d) The Board will publish notice of its actions on applications for statements of authorization in the Status of Charter Application attachments to the Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters or endorsed forms advising applicants of action taken on their applications.

§ 212.23 Foreign-originating charters.

At least 45 days before the departure date of a foreign-originating charter or series of charters to be operated by a direct air carrier for an indirect air carrier of passengers, the carrier shall file with the Board (Special Authorities Division, Bureau of Domestic Aviation) a charter prospectus containing the following information:

(a) The name and address of the charter operator;

(b) The proposed date and time of each flight;

(c) The aircraft type to be used for each flight including the number of seats;

(d) The charter price for the aircraft;

(e) The duration of each charter and, if applicable, the tour itinerary, including the names of hotels, and any sightseeing or other arrangements included in the tour; and

(f) The charter price per passenger, and, if the charter trip includes a tour, the tour price per passenger.

PART 298—[AMENDED]

3. In Part 298, *Exemption for Air Taxi Operations*, paragraph (a) of § 298.38 would be revised, as follows:

§ 298.38 Security arrangements for operating Public Charters.

When an air taxi operator performs a Public Charter under Part 380 of this Chapter, either—

(a) The air taxi operator shall meet the bonding or escrow requirements applicable to certificated carriers as set forth in Part 212 of this chapter, or

* * * * *

4. Part 380 would be revised to read:

PART 380—PUBLIC CHARTERS

Subpart A—General Provisions

Sec.

380.1 Scope.
380.2 Definitions.
380.3 Basic requirements.
380.4 Types of financial protection.
380.5 Security instrument.
380.6 Depository agreement.
380.7 Retailer notice and responsibility.
380.8 Charter prospectus.
380.9 Ground services.
380.10 Multiple enterprises.
380.11 Charters for particular events.
380.12 Waivers.
380.13 General requirements for operator-passenger contracts.
380.14 Specific requirements for operator-passenger contracts.
380.15 Major changes in itinerary or price; refunds.
380.16 Exemptions.
380.17 Effect of exemptions on antitrust laws.

Subpart B—Registration of Foreign Charter Operators

380.20 Purpose.
380.21 Operations by foreign charter operators.
380.22 Registration applications.
380.23 Objections to registration applications.
380.24 Board action on a registration application.
380.25 Notification of change of operations or ownership.
380.26 Cancellation or conditioning of the registration.
380.27 Waiver of sovereign immunity.
380.28 Waivers.

Subpart A—General Provisions

§ 380.1 Scope.

(a) This part applies to public charter air transportation of passengers in interstate, overseas, or foreign air commerce.

(a) This part does not, however, apply to air transportation that originates outside the United States.

§ 380.2 Definitions.

For purposes of this part:

"Bank" means a financial institution insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or any other Federal agency that in effect guarantees the payment of deposits in the bank.

"Charter flight" means any air transportation other than a flight according to a regular schedule listed in a generally distributed scheduled airline guide or timetable, but does not include a nonscheduled flight carrying only individually waybilled cargo by a foreign air carrier whose permit authorizes only nonscheduled cargo carriage.

"Charter passengers" or "passengers" means any persons who travel, or contract to travel, on a charter flight or in "public charter air transportation" as defined in this section.

"Direct air carrier" means the air carrier or foreign air carrier that conducts the flight operation.

"Flight" means a single, one-way aircraft operation, including intermediate stops, if any.

"Indirect air carrier" means a person of either U.S. or foreign citizenship that, directly or through one or more intermediaries, sells passenger air transportation, other than as a direct air carrier or as an agent of an air carrier or foreign air carrier.

"Public charter air transportation" means passenger air transportation that is sold, directly or through one or more intermediaries, by an indirect air carrier, under conditions where the direct air carrier does not, at the time of sale, bear the responsibility for safeguarding the passengers' money (i.e., either refunding it or providing the transportation for which it was paid) in the event of insolvency or malfeasance of a person selling the transportation.

§ 380.3 Basic requirements.

No person shall advertise, offer to sell, sell, accept money for, or operate public charter air transportation as an indirect air carrier until that person—

(a) Has entered into a contract with a direct air carrier to perform the charter(s);

(b) Has obtained a security instrument covering the charter and conforming to §§ 380.4 and 380.5;

(c) Has entered into a depository agreement with a bank in accordance with § 380.6, covering all charters that are to be performed in accordance with § 380.4(b); and

(d) Has submitted to the Board (Special Authorities Division) a charter prospectus, covering the charters, in accordance with § 380.8, and either—

(1) The Board has approved the prospectus, or

(2) 10 days have elapsed since the Board received the prospectus and the Board has not notified the indirect air carrier that it has disapproved the prospectus as a whole or in pertinent part.

§ 380.4 Types of financial protection.

An indirect air carrier selling public charter air transportation shall provide financial protection as described in either paragraph (a) or paragraph (b) of this section:

(a) A security instrument meeting the requirements of § 380.5, with a coverage limit at least equal to the total retail charter price for all passengers covered;

(b) A security instrument meeting the requirements of § 380.5, with a coverage limit of at least $10,000 per flight up to a maximum of at least $200,000, plus a depository agreement conforming to § 380.6.

§ 380.5 Security instrument.

(a) A security instrument that satisfies the requirements of this part shall be either—

(1) A bond issued by a company listed in *Best's Key Rating Guide, Property-Casualty* with a general policyholders' rating of "A" or better, in the form set forth in Appendix A;

(2) A surety trust agreement issued by a bank, in the form set forth in Appendix B; or

Note.—Under this proposal Appendices A and B would be substantially the same as Appendix A and E, respectively, of the present 14 CFR Part 380.

(3) Another instrument (*e.g.*, insurance, letter of credit, or an industry fund) approved by the Board as providing substantially equivalent protection.

(b) The security instrument shall require the securer to pay each purchaser of charter air transportation any amount of money, not to exceed that person's charter price, that is determined by the securer or adjudged by a court of competent jurisdiction to be due from the indirect air carrier to that person because of failure to refund the money or provide the services for which the money was paid.

(c) The security instrument shall allow purchaser of charter air transportation at least 60 days after the termination of a charter to make claims against the indirect air carrier, or if it is unavailable, against the securer. Termination of a charter means the date of arrival (or in the case of a canceled charter, the intended date of arrival) of the last flight for which the purchaser has contracted.

(d) Any securer that files or causes to be filed a statement in accordance with § 380.8)a)(3) shall be deemed to have agreed to provide the coverage described in this section, notwithstanding any terms of the security instrument that purport to lessen the protection provided. Failure by the securer to make payment as specified by paragraph (b) of this section shall be a separate violation of this part as to each affected purchaser.

(e) A security instrument with a maximum overall coverage limit (at least $200,000 under § 380.4(b) shall be limited in its coverage to the charter flights of a single indirect air carrier. For purposes of this part, a single indirect air carrier shall be either a single corporate or other entity, or a grouping that is wholly owned by a single entity.

(f) In the case of a security instrument with a maximum overall coverage limit, whenever any judgment creates a claim against the securer in accordance with this section or the terms of the security instrument, the indirect air carrier shall make no further sales of public charter air transportation until the Board receives a new joint statement from the indirect air carrier and a securer that the full amount of coverage required by this part is in effect.

§ 380.6 Depository agreement.

A depository agreement that satisfies the requirements of this part shall have the following characteristics:

(a) The agreement shall be between the indirect air carrier and a bank. The indirect air carrier shall provide to the bank a copy of its contract with the direct air carrier.

(b) The indirect air carrier shall require all payments for a charter, whether sold by the indirect air carrier or an agent of a direct or indirect air carrier, to be made by check or money order payable to the bank. A travel agent may accept payment to it by a purchaser, deduct its commission, and then remit the balance in the form specified above.

(c) The indirect air carrier shall deposit in or mail to the bank all payments it receives not later than the second business day after it receives them.

(d) At the time of deposit the indirect air carrier shall allocate all payments to the flights, both outbound and return, for which they were made. The bank shall obtain allocation information as needed from the indirect air carrier for any payments that it receives from a source other than the indirect air carrier. The bank shall maintain a separate accounting for each charter flight.

(e) The bank shall make payment to the direct air carrier in accordance with the terms of the contract between the indirect air carrier and the direct air carrier. The bank shall make payment to suppliers of ground services included in the charter, if any, upon presentation by the indirect air carrier of statements by such suppliers of amounts due.

(f) The indirect air carrier may, at its option, pay for air transportation or ground services included in the charter, in whole or in part, from its own funds. In that case, the bank shall reimburse the indirect air carrier from the charter flight account for the amounts expended, upon presentation by the indirect air carrier of statements by suppliers showing the amounts paid, after certification by the direct air carrier that the charter flight in question (in the case of ground service payments, the return charter flight) has been completed.

(g) If a charter flight is canceled, or if a passenger withdraws from a charter, the bank shall refund deposited funds directly to the passenger(s) upon written notification by the indirect air carrier of the cancellation or withdrawal. The indirect air carrier in such cases shall furnish to the bank the names and addresses of the passengers to whom the funds should be sent, not later than 7 days after the event giving rise to the refund. If under the terms of its contract with a passenger the indirect air carrier is entitled to retain a withdrawal penalty, the bank shall pay over the amount of the penalty to the indirect air carrier upon its presentation of the relevant contract terms and the notice by the withdrawing party.

(h) Except as provided in paragraphs (f) and (g) of this section, the bank shall not pay funds from the charter flight account to the indirect air carrier until it has paid any refunds to passengers required by this part and—

(1) If the passenger paid for only one charter flight and no ground services, the direct air carrier certifies that that flight has been completed; or

(2) If the passenger has paid for ground services as part of the charter, or for a return flight, the direct air carrier certifies that the return flight has been completed.

(i) Either party to the depository agreement shall be liable for losses to charter passengers caused by its participation in procedures that do not conform to the agreement and to this part. Such participation shall in addition be a violation of this part. Either party shall be considered to participate in nonconforming procedures if it is aware, or should be aware, that these rules are not being followed by the other party.

§ 380.7 Retailer notice and responsibility.

(a) In any brochures, advertisements, and other descriptive materials concerning its charters, an indirect air carrier shall give conspicuous notice of whether it is using a depository agreement to protect passenger's funds.

(b) In any case where the indirect air carrier has indicated that it is using a depository agreement, every person, including a travel agent, selling charter flights for the indirect air carrier shall ensure that money paid for charters is remitted in the form of a check or money order made payable to the depository bank. (A travel agent may deduct commissions as specified in § 380.6(b).) Any such person that causes the remittance of money in any other form shall be liable to a charter passenger for any losses, up to but not more than the charter price to the passenger, arising from failure of the money to be placed in the depository account. Such liability shall be in addition to any other liabilities to passengers that may exist.

§ 380.8 Charter prospectus.

(a) A charter prospectus that satisfies the requirements of this part shall contain the following:

(1) A joint statement by the indirect air carrier and the direct air carrier that they have a contract to operate the covered charter flights. The statement shall include the earliest and latest departure dates of the covered flights, and all the origin and destination points covered by the contract.

(2) A statement by the indirect air carrier of the type of financial protection, as specified in § 380.4, that it will use to satisfy the requirements of this part. If more than one type of protection is to be used for the covered flights (*e.g.*, different securers, or a depository agreement covering only part of the flights included), the flights to be covered by each type shall be precisely identified. Such identification may be by the time and itinerary of each flight, or inclusive dates of the flights, or any other unambiguous method.

(3) A joint statement by the indirect air carrier and the securer (*i.e.*, the person furnishing the security instrument to satisfy § 380.5) that a security instrument is in effect covering the charter flights. If more than one securer is involved in the flights covered by the prospectus, a joint statement with each securer shall be furnished, identifying precisely the covered flights.

(4) If applicable, a joint statement by the indirect air carrier and a bank that a depository agreement is in effect covering the charter flights. If more than one depository bank is involved in the flights covered by the prospectus, a joint statement with each bank shall be furnished, identifying precisely the covered flights.

(b) The indirect air carrier shall give a copy of the prospectus to each securer, each bank, and each direct air carrier involved in the flights covered by the prospectus.

(c) If any changes are needed to make the prospectus correctly reflect the coverage required by this part, the changes shall be filed with the Board in the same manner and time as specified in § 380.3 for the original prospectus.

(d) Each statement submitted with a prospectus shall include the names and addresses of the parties to it, and shall be signed by an authorized representative of those parties.

§ 380.9 Ground services.

Ground services during the period of a charter that are sold by the indirect air carrier may be excluded from the coverage of this part (*i.e.*, not included as part of the charter) only if their prices to the passengers in question are separately stated in the pertinent solicitation materials, and the passengers are free to omit those services and deduct those stated prices from the total price of the charter.

§ 380.10 Multiple enterprises

Any entity that sells public charter air transportation, either directly to passengers or through intermediaries, shall do so either as the direct air carrier for those flights in conformity with Part 212 of this chapter, an indirect air carrier in conformity with this part, or an agent of such direct air carrier or indirect air carrier. An indirect air carrier shall not sell public charter air transportation through an intermediary other than its agent, unless it ascertains (for example, by checking with the Board's Special Authorities Division) that the intermediary is acting as an indirect air carrier and has conformed to the requirements of this part with respect to that public charter air transportation.

§ 380.11 Charters for particular events.

If the primary purpose of a charter to which this part applies is attendance at a particular event, and admission tickets for the event are bought by passengers as part of the charter package, the indirect air carrier shall refund the total charter price to those passengers if the tickets are not provided, even if transportation is provided.

§ 380.12 Waivers.

A waiver or any of the provisions of this part may be granted by the Board when it is found to be in the public interest. Applications for waivers with supporting information should be submitted to the Board's Special Authorities Division.

§ 380.13 General requirements for operator-passenger contracts.

(a) No money shall be accepted by a charter operator from a prospective passenger unless the passenger has agreed to the conditions of the charter by signing an operator-passenger contract, as described in §380.14. If a member of a group that will travel together pays for the group, that member may sign the contract on behalf of the group.

(b) The contract form may include a space that passengers may check to authorize the charter operator to retain their money while attempting to make other arrangements for them if there is no space available on the flight.

(c) If there is no space available on the flight or specific alternative flights requested by the passenger, the operator shall return all the passenger's money within 7 days after receiving it unless the passenger, in accordance with paragraph (b) of this section, has authorized the operator to retain the payments while the operator attempts to make other arrangements. If the operator retains the payments while attempting to make other arrangements for the passenger, it shall notify the passenger of the fact within 7 days after receiving the payments but in no event later than the departure. For the purpose of the time periods in this paragraph, receipt of money by a travel agent on behalf of a charter operator will not be considered as receipt by the operator.

(d) The contract form shall be designed so as to enable participants to retain a copy of the general terms and conditions after signing it. The specific information supplied by participants (such as choices of dates, cities, or other options) need not be retainable.

§ 380.14 Specific requirements for operator-passenger contracts.

Contracts between charter operators and charter passengers shall state:

(a) The name and complete mailing address of the charter operator;

(b) The name of the direct air carrier, and the dollar amounts of the carrier's liability limitations for passenger's baggage;

(c) The dates of the outbound and return flights;

(d) The origin and destination city of each flight leg;

(e) The tour itinerary, if any, including the name and location of the hotels, length of stay at each, and other ground accommodations and services that are part of the tour;

(f) The amount and schedule of payments;

(g) If a depository agreement as provided in §380.4(b) is used: That all checks and money orders must be made payable to the escrow account at the depository bank (identifying bank) or, when the charter is sold to the passenger by a retail travel agent, checks and money orders may be made payable to the agent, which must in turn make its check payable to the escrow account at the depository bank;

(h) That the charter operator may not cancel the charter less than 10 days before the scheduled departure date, except for circumstances that make it physically impossible to perform the charter;

(i) That if a charter is canceled 10 or more days before the scheduled departure date, the operator will notify the passenger in writing within 7 days after the cancellation, but in any event at least 10 days before the scheduled departure;

(j) That if a charter is canceled less than 10 days before departure (i.e. for circumstances that make it physically impossible to perform the charter), the operator will notify the passenger as soon as possible;

(k) That if the charter is canceled, a refund will be made to the passenger within 14 days after the cancellation;

(l) The right to refunds if the passenger changes plans, including that any passenger who wishes to withdraw will receive a full refund (less any applicable administrative fee, not to exceed $25) upon providing a substitute passenger to the charter operator or its sales agent, or upon being substituted for by a passenger found by the charter operator;

(m) The procedure for obtaining the refunds described in paragraph (l) of this section, including that they will be made within 14 days after the withdrawal or substitution;

(n) The meaning of "major change", as set forth in § 380.15(a);

(o) That if the charter operator knows of a major change 10 or more days before scheduled departure, the operator will notify the passenger of the change within 7 days after first knowing of it, but in any event at least 10 days before scheduled departure;

(p) That if the operator first knows of a major change less than 10 days before scheduled departure, the operator will notify the passenger as soon as possible;

(q) That within 7 days after receiving a pre-departure notification of a major change but in no event later than departure, the passenger may withdraw, and that a full refund will be made to the passenger within 14 days after withdrawing;

(r) That upon a post-departure notification of a major change, the passenger may reject the substituted hotel or the changed date, origin, or destination of a flight leg and be sent, within 14 days after the return date named in the contract, a refund of the portion of the payment allocable to the hotel accommodations or air transportation not provided;

(s) That the passenger's rights and remedies set forth in the contract, including the procedures for major changes, shall be in addition to any other rights or remedies available under applicable law.

(t) The name and address of the surety company or bank issuing the security agreement; and that unless the charter passenger files a claim with the charter operator or, if it is unavailable, with the securer, within 60 days after temination of the charter, the securer shall be released from all liability under the security agreement to that participant. Termination means the date of arrival (or in the case of a canceled charter, the intended date of arrival) of the return flight. If there is no return flight in a passenger's itinerary, termination means the date or intended date of departure of the last flight in the participant's itinerary;

(u) For international flights only: That additional restrictions may be imposed on the flight by the foreign governments involved, and that if landing rights are denied by a foreign government, the flight will be canceled with a full refund to the participant. This statement need not be included in the contract if: (1) The prospectus includes a certification by the charter operator and the direct air carrier that landing rights have been obtained from all the foreign governments involved, and (2) all the foreign governments involved accept

conformity to this Part for charterworthiness purposes;

(v) That the charter operator is the principal and is responsible to the passengers for all services and accommodations offered in connection with the charter. However, the contract may expressly provide that the charter operator, unless it is negligent, is not responsible for personal injury or property damage caused by any direct air carrier, hotel, or other supplier of services in connection with the charter.

§ 380.15 Major changes in itinerary or price; refunds.

(a) For the purposes of this section, "major change" means any of the following:

(1) A change in the departure or return date shown in the operator-passenger contract, unless the change results from a flight delay. In any event, however, a date change that the operator knows of more than 2 days before the scheduled flight date, and any delay of more than 48 hours, will be considered a major change.

(2) A change in the origin or destination city shown in the operator-passenger contract for any flight leg, unless the change affects only the order in which cities named in a tour package are visited.

(3) A substitution of any hotel that is not named in the operator-passenger contract; and

(4) A price increase to the participant that occurs 10 or more days before departure and results in an aggregate price increase of more than 10 percent.

(b) The charter operator shall not increase the price to any passenger less than 10 days before departure.

(c) The charter operator shall notify all passengers of major changes, as required by the operator-passenger contracts. This notification shall include the passengers' rights to refunds required to be described in the operator-passenger contract.

(d) Except as otherwise specified, notifications and refunds required by this part are considered made at the time they are mailed or sent by an equivalent method.

(e) The charter operator shall make all refunds required to be described in the operator-passenger contract within the time limits set forth in paragraphs (k), (m), (q), and (r) of § 380.14, as applicable.

§ 380.16 Exemptions.

(a) Indirect air carriers are hereby relieved from the following provisions of the Federal Aviation Act, if and so long as they comply with the provisions of this part, and to the extent necessary to enable them to provide public charter air transportation as indirect air carriers:

(1) Section 401.

(2) Section 402.

(3) Section 403.

(4) Section 404(a).

(5) Section 405(b).

(6) Section 407 (b) and (c).

(7) Section 408(a) and section 409, for transactions and relationships to which those sections apply only because of the involvement of operations under this part.

(8) For foreign indirect air carriers that receive interstate or overseas air transportation rights, any other provision of the Act that would otherwise prohibit them from providing interstate or overseas public charter air transportation as indirect air carriers.

(b) The exemptions from section 408(a) and 409 of the Act that are granted to indirect air carriers by paragraph (a)(7) of this section are hereby granted to all other parties to the transaction or relationship.

(c) The Board may withdraw or condition the exemptions granted by this part if any of the following occurs:

(1) The indirect air carrier files a written notice with the Board that it is discontinuing its operations under this part;

(2) A substantial ownership interest is acquired by persons who are not citizens of the same country as the indirect air carrier; or

(3) The Board finds, after notice and an opportunity for responses, that the indirect air carrier has violated the Act or the Board's regulations. With respect to an indirect air carrier of foreign citizenship, the Board will also consider the reciprocity afforded to U.S. indirect air carriers by that indirect air carrier's home country.

§ 380.17 Effect of exemptions on antitrust laws.

The exemptions granted in § 380.16 do not constitute orders, within the meaning of section 414 of the Act, and confer no immunity or relief from the antitrust laws or any other statute except the Act.

Subpart B—Registration of Foreign Charter Operators

§ 380.20 Purpose.

This subpart establishes registration procedures for foreign charter operators intending to engage in public charter air transportation that originates in the United States.

§ 380.21 Operations by foreign charter operators.

(a) Each foreign charter operator shall be registered under this subpart and file a prospectus under § 380.8 before organizing groups for transportation on Public Charters that originate in the United States.

(b) Each foreign charter operator registered under this subpart shall comply with the other provisions of this part directed to charter operators.

§ 380.22 Registration applications.

(a) To be registered under this subpart, a foreign charter operator shall file two copies of an application for registration with the Board's Bureau of International Aviation, Regulatory Affairs Division. The Board will list the names and nationalities of all persons applying fdor registration in its Weekly Summary of Filings.

(b) The application shall be made on Form 300, which can be obtained from the CAB's Publication Services Division, Washington, D.C. 20428.

(c) The applicant shall clearly indicate in its application for registration whether it requests authority to engage in foreign, interstate, and/or overseas air transportation.

§ 380.23 Objections to registration applications.

Any person objecting to the registration application of a foreign charter operator or to a proposed change in the name or ownership of that operator shall file an objection with the Bureau of International Aviation, Regulatory Affairs Division, within 28 days after the Board receives the properly completed registration application.

§ 380.24 Board action on a registration application.

(a) After a registration is received, one of the following actions will be taken.

(1) The application will be approved by the stamping of the effective date of registration on CAB Form 300 and returning the duplicate copy of the form to the operator;

(2) Additional information will be requested from the applicant;

(3) The applicant will be notified that its application will require further analysis or procedures, or is being referred to the Board for formal action;

(4) The registration application will be rejected if it does not comply with the filing requirements of this subpart;

(5) The application will be approved subject to such terms, conditions, or limitations as may be required by the public interest; or

(6) The registration application will be rejected for reasons relating to the failure of effective reciprocity or if the Board finds that it would be in the public interest to do so.

(b) One of the actions described in paragraph (a) of this section will normally be taken within 60 days after the registration application is received. The Board will also consider requests for faster action that include a full explanation of the need for expedited action.

§ 380.25 Notification of change of operations or ownership.

(a) Not later than 30 days before any change in its name or address or before a temporary or permanent cessation of operations, each foreign charter operator registered under this subpart shall notify the Board's Bureau of International Aviation, Regulatory Affairs Division, of the change by resubmitting CAB Form 300.

(b) A foreign charter operator registered under this subpart shall apply for an amendment to that registration not later than 30 days after either of the following events:

(1) A person listed on its existing registration as owning or holding beneficial interest in at least 10 percent of the operator's stock reduces its holding to below 10 percent;

(2) A person not listed on the existing registration as owning or holding beneficial interest in a least 10 percent of the operator's stock becomes an owner or holder of 10 percent or more of that stock.

(c) An application for an amendment shall be made by resubmitting CAB Form 300. The existing registration shall remain valid pending Board action on the amendment.

§ 380.26 Cancellation or conditioning of the registration.

The registration of a foreign charter operator may be canceled or subjected to additional terms, conditions, or limitations if any of the following occur.

(a) The operator files a written notice with the Board that it is discontinuing its charter operations;

(b) A substantial ownership interest is acquired by persons who are not citizens of the same country as the registrant; or

(c) The Board finds, after notice and an opportunity for responses, that it is in the public interest to do so. In making this finding, the Board will consider whether effective reciprocity exists between the United States and the government of the foreign charter operator.

§ 380.27 Waiver of sovereign immunity.

By accepting an approved registration form under this subpart, an operator waives any right it may have to assert any defense of sovereign immunity from suit in any proceeding against it, in any court or other tribunal of the United States, that is based upon a claim arising out of operations by the operator under this part.

§ 380.28 Waivers.

The Board upon application or on its own initiative may waive any of the provisions of this subpart if it finds such action to be in the public interest.

(Secs. 204, 401, 402, 403, 404, 407, 408, 409, 411, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 757, 758, 760, 766, 767, 768, 769, 771, 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1378, 1379, 1381, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-9613 Filed 4-11-83; 8:45 am]

BILLING CODE 6320-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Notification of State Enforcement Actions Under the Commodity Exchange Act

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to adopt regulations to set forth procedures for a state to notify the Commission of actions which the state intends to bring under Section 6d of the Commodity Exchange Act ("Act"), 7 U.S.C. 13a-2, as amended. Section 6d gives the states statutory standing to bring civil actions in Federal district courts for violations of the Commodity Exchange Act and Commission regulations committed by any person. Establishment of these procedures will assist the states in fulfilling the notification requirements of Section 6d of the Act and will help to assure that the Commission receives timely notice and information, thereby enabling the Commission to effectuate the purposes of Section 6d.

DATE: Comments must be received on or before May 12, 1983.

ADDRESS: Comments should be sent to Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 Attention: Secretary.

FOR FURTHER INFORMATION CONTACT: Maureen Donley Hoopes, Esquire, Office of General Counsel, Commodity Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254-9880.

SUPPLEMENTARY INFORMATION: Sections 6d(1)-(6) of the Act, 7 U.S.C. 13a-2(1)-(6) (Supp. IV 1980), as added by the Futures Trading Act of 1978, Pub. L. 95-405, 92 Stat. 865 (1978), gives the states statutory standing to bring civil actions in federal district courts for violations of the Commodity Exchange Act and Commission regulations committed by any person.[1] In these federal court proceedings, states are able to seek injunctive relief, writs of mandamus, damages on behalf of their residents and other appropriate relief. Sections 6d (1) and (2). Immediately upon instituting an action in federal court a state is required to serve written notice upon the Commission and provide the Commission with a copy of the complaint. The Commission is entitled to intervene as a matter of right or appeal in any action brought by a state. Section 6d(3).[2]

In addition, the Futures Trading Act of 1982, Pub. L. 97-444, 96 Stat. 2294, 2308-09 (1983), adds a new paragraph (8) to Section 6d, which provides that nothing in the Act prevents a state from proceeding in state courts against Commission registrants (other than a floor broker or futures association) for alleged violations of the antifraud provisions of the Act or any of the Commission's antifraud rules, regulations or orders. A state must notify the Commission in writing of its intent to proceed and, as in federal court actions brought under Section 6d(1), furnish to the Commission a copy of its complaint immediately upon instituting any such proceeding and the Commission has the right to intervene and appeal. In addition, the Commission may remove the proceeding to a proper federal district court, and may appear *amicus curiae*. The respondent may also remove the case to federal court.[3]

[1] However, contract markets, clearinghouses and floor brokers may not be sued in these civil actions brought by the states. Section 6d(1).

[2] Sections 6(d)(3)-(6) set forth certain procedural and definitional provisions related to the state's law enforcement role in federal court. Section 6d(7) of the Act recognizes that a state is permitted to bring an action in state court for violations of any general civil or criminal antifraud statute of that state.

[3] Section 6d(8) specifically provides:

(A) Nothing in this Act shall prohibit an authorized State official from proceeding in a State court against any person registered under this Act (other than a floor broker or registered futures association) for an alleged violation of any antifraud provision of this Act or any antifraud rule, regulation, or order issued pursuant to the Act.

(B) The State shall give the Commission prior written notice of its intent to proceed before instituting a proceeding in State court as described in this subsection and shall furnish the Commission

The Commission is proposing a rule which would specify that all information which states are required to provide the Commission under Section 6d be sent to the Secretary of the Commission at the Commission's Washington Headquarters. This aspect of the rule is intended to assure that all state officials be on notice of the appropriate staff component in the Commission that should receive the information concerning actions under Section 6d.

Under the proposed rule, the notices required by Sections 6d (3) and (8) would contain the names of the parties to the proceeding and the provision of the Act or Commission rule, regulation or order on which the alleged violations will be based. This information will aid the Commission in assessing whether it has any information that will assist the states or whether it should intervene or appear *amicus curiae*. And, in the case of a proposed state court proceeding under Section 6d(8), this information will assist the Commission in deciding whether to express a view on whether or not the state should file the action, or if the case is filed, in deciding whether and how to participate. *See* Sections 6d (3) and (8).

The proposed rule generally would require that a state provide the Commission with written notice of its intent to proceed in a state court under Section 6d(8) five or more days prior to instituting the proceeding. The Commission appreciates that in certain circumstances it may be impracticable to provide the Commission with written notice five or more days prior to instituting a state court proceeding. For example, the state may encounter a situation where a potential defendant is about to abscond with funds or leave the state's jurisdiction. The proposed rule provides that in these situations, the authorized state official telephone the Secretary of the Commission as soon as practicable, and prior to instituting the proceeding in state court, provide the Commission with prior written notice via Telex or other similarly expeditious means of communications.

The Commission wishes to emphasize that a state's failure to comply with the specific requirements of any rules the Commission adopts in this rulemaking proceeding is not intended to confer any rights on any person or to provide a defense to any person subject to an action brought by a state under Section 6d of the Act.

The Commission is particularly interested in comments from state enforcement officials on its proposal and is mailing a copy of this notice to all state attorneys general. The Commission is also interested in comments from other interested persons and encourages comments on any alternative means of communication which might more effectively implement the procedures set forth in Section 6d.[4]

Lists of Subjects in 17 CFR Part 1

Commodity exchanges, Reporting and recordkeeping requirements.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 6d and 8a thereof, 7 U.S.C. 12a and 13a–2, as amended, the Commission hereby proposes to add a new § 1.70 in Chapter I if Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. A new § 1.70 is proposed to read as follows:

§ 1.70 Notification of State Enforcement Actions brought under the Commodity Exchange Act.

(a) Immediately upon instituting any proceeding in any federal district court against any person for violation of the Act or any rule, regulation or order thereunder, the authorized state official of the state instituting the proceeding shall submit to the Commission a copy of the compliant filed in the proceeding, together with a written notice which:

(1) Indicates the names of parties to the proceeding;

(2) Indicates the provision of the Act or the rule, regulation order thereunder on which the alleged violations are based.

The complaint and writen notice must be sent by first-class United States mail or personally delivered to the Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

(b) Prior to instituting any proceeding in a state court pursuant to the provisions of Section 6d(8) of the Act against any person registered with the Commission for the alleged violation of any antifraud provisions of the Act or any antifraud rule, regulation or order thereunder, the authorized state official of the state intending to institute the proceeding shall submit to the Commission written notice which:

(1) Indicates the names of parties to the proposed proceeding;

(2) Indicates the provision of the Act or the rule, regulation or order thereunder on which the alleged violations will be based.

Except as provided in paragraph (c) of this section, this written notice must be sent by first-class United States mail or personally delivered to the Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 not less than 5 business days prior to instituting the proceeding in state court.

(c) Where it is impracticable to provide the Commission with written notice within the time period specified in paragraph (b) of this section, the authorized state official must inform the Secretary of the Commission by telephone at (202) 254–6314 as soon as practicable of the state's intent to institute a proceeding in state court and must send written notice via Telex or other similarly expeditious means of written communication to the Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (TWX–710–822–9327) prior to instituting the proceeding in state court.

(d) Immediately upon instituting any proceeding in a state court pursuant to the provision of Section 6d(8) of the Act against any person registered with the Commission for alleged violation of any antifraud provisions of the Act or any antifraud rule, regulation or order thereunder, the authorized state official instituting the proceeding shall submit to the Commission a copy of the complaint filed in the proceeding. The copy of the complaint must be sent by first class United States mail or personally delivered to the Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington, D.C. on April 6, 1983, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 83-9476 Filed 4-11-83; 8:45 am]

BILLING CODE 6351-01-M

with a copy of its complaint imediately upon instituting any such proceeding. The Commission shall have the right to (i) intervene in the proceeding and, upon doing so, shall be heard on all matters arising therein, and (ii) file a petition for appeal. The Commission or the defendant may remove such proceeding to the district court of the United States for the proper district by following the procedure for removal otherwise provided by law, except that the petition for removal shall be filed within sixty days after service of the summons and complaint upon the defendant. The Commission shall have the right to appear as amicus curiae in any such proceeding.

[4] Since states are not "small entities" as defined in 5 U.S.C. 601(6), this proposed rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. (1981).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 11

[Docket No. RM83-13-000]

Annual Charges for the Use of Government Dams and Other Structures Under Part 1 of the Federal Power Act; Notice of Technical Conference

April 8, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Technical Conference.

SUMMARY: On March 31, 1983, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking in Docket No. RM83-13-000 (48 FR 15134, April 7, 1983). The Commission has scheduled a technical conference in connection with this rulemaking for Monday, April 25, 1983, between 10:00 a.m. and 4:00 p.m. in a second floor hearing room at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

The purpose of the conference will be to permit interested persons to seek clarification from the Commission staff on technical matters contained in the Notice of Proposed Rulemaking. To ensure consideration, all questions should be written and filed with the Commission on or before April 19, 1983. While it is expected that some oral questions will be entertained at the conference, the Commission's staff will give priority to timely-submitted written questions. A transcript of the conference will be made.

DATES: Written questions must be received by the Commission on or before April 19, 1983. The conference will be held April 25, 1983.

ADDRESS: The questions should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should refer to Technical Conference, Docket No. RM83-13-000. An original and 14 copies must be filed.

FOR FURTHER INFORMATION CONTACT: Bernard B. Chew, Director of Interconnection and Systems Analysis, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 376-9284.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9072 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 83N-0011]

Whey Cheeses; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard of Identity

Correction

In FR Doc. 83-3874 beginning on page 6722 in the issue of the Tuesday, February 15, 1983, make the following corrections:

1. On page 6723, first column, in Codex Standard No. A-7, item 3.3, *Skinned"* should have read *Skimmed"*.

2. In the second column of that page, items 6.1, 6.2, and 6.3, "FAO/WEO" should have "FAO/WHO".

BILLING CODE 1505-01-M

21 CFR Part 347

[Docket No. 78N-0021]

Skin Protectant Dry Products for Over-the-Counter Human Use; Tentative Final Monograph

Correction

In FR Doc. 83-3903 beginning on page 6820 in the issue of Tuesday, February 15, 1983, make the following corrections:

1. On page 6830, third column, third line from the top of the page, "On comment" should have read "One comment".

2. In the same column, 15 lines from the bottom of the page "warning is" should have read "warning in".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-252-81]

Deductibility of Employee Awards; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a change of date of a public hearing on proposed regulations that provide rules governing the deductibility by employers of expenses for awards to employees.

DATE: The public hearing will be held on June 2, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by May 19, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-252-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice appearing in the **Federal Register** for Friday, March 11, 1983 (48 FR 10376), it was announced, among other things, that a public hearing on proposed regulations relating to deductibility of employee awards would be held on May 3, 1983, beginning at 10:00 a.m. in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The proposed regulations were published in the **Federal Register** for Thursday, December 16, 1982 (47 FR 56367).

The date for the public hearing has been changed and it will be held on Tuesday, June 2, 1983.

Outlines of oral comments must be delivered or mailed by May 19, 1983.

In all other respects the details with respect to the hearing remain the same.

By direction of the Commissioner of the Internal Revenue:

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-9630 Filed 4-8-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcment

30 CFR Part 931

Public Comment and Opportunity for Public Hearing on Modified Portions of the New Mexico Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted by New Mexico to satisify three conditions imposed by the Secretary of the Interior on the approval of the New Mexico Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Additionally, comment is being solicited on New Mexico's request for an extension of the deadline for the State to satisfy one of the Secretary's conditions of approval of the New Mexico program pertaining to the State's bonding regulations.

DATES: Written comments must be received on or before 4:00 p.m. on (May 12, 1983) to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions.

A public hearing on the proposed modifications has been scheduled for May 4, 1983, at 10 a.m. at the address listed below under "ADDRESSES." Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address below by April 13, 1983. If no person has contacted Mr. Hagen by this date to express an interest to participate in this hearing, the hearing will not be held. If only one person has so contacted Mr. Hagen, a public meeting, rather than a hearing may be held and the results of the meeting included in the Aministrative Record.

ADDRESS: The public hearing will be held at the State of New Mexico, Energy and Minerals Department, Mining and Minerals Division, Map Room, 525 Camino De Los Marquez, Santa Fe, New Mexico 87501.

Written comments should be mailed or hand-delivered to Mr. Robert Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW, Albuquerque, New Mexico 87102, Telephone: (505) 766-1486.

Copies of the proposed modifications to the New Mexico program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Headquarters Office, the OSM Field Office and the Office of the State Regulatory Authority Listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

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

Office of Surface Mining Reclamation and Enforcement, Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

Energy and Minerals Department, Division of Mining and Minerals, 525 Camino De Los Marquez, Santa Fe, New Mexico 87501, telephone: (505) 872-5451.

FOR FURTHER INFORMATION CONTACT: Robert Hagen, Field Office Director, Office of Surface Mining, 219 Central Avenue, N.W., Albuquerque, New Mexico 87102, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION: On February 28, 1980, OSM received a proposed regulatory program from the State of New Mexico. On December 31, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the proposed program conditioned on the correction of 12 minor deficiencies (45 FR 86459-86490).

In accepting the Secretary's conditional approval, New Mexico agreed to submit provisions to satisfy conditions (a)-(d) and (f)-(l) by July 1, 1981, and a provision to meet condition (e) by February 28, 1982. Subsequently, New Mexico requested that the deadline for the State to meet conditions (a)-(d) and (f)-(l) be extended until February 28, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant New Mexico's request. In response to a further request by the State in December 1981, the Secretary reexamined conditions (a)-(c) and (e)-(l) in light of proposed and final changes to the Federal permanent program rules. As a result of that reexamination, the Secretary decided to remove conditions (a) and (k), to extend the deadline for the State to meet conditions (b), (c), (f), (g), (i), and (l) to July 31, 1982, and to extend the deadline for the State to meet conditions (e), (h) and (j) to March 15, 1983 (47 FR 23150-23153, May 27, 1982).

On February 28, 1982, New Mexico submitted to OSM a policy statement to satisfy condition (d). Following a review of that material as outlined in 30 CFR 732, the Secretary determined that the amendment submitted by the State satisfied condition (d). Notice of the Secretary's decision to remove that condition was published in the *Federal Register* on May 27, 1982 (47 FR 23153-23155). On July 9, 1982, New Mexico submitted regulatory revisions adopted by the New Mexico Coal Surface Mining Commission on that date to satisfy conditions (b), (c), (f), (g), (i) and (l) following OSM's review of those provisions, the Secretary removed conditions (c), (f), (g) and (i) and extended the deadline for the State to satisfy conditions (b) and (l), until March 15, 1983.

On March 14 and 15, New Mexico submitted program modifications intended to the satisfy conditions (h), (l) and (b). This notice concerns the amendments submitted by New Mexico on that date. A description of the provisions submitted by the State and of the conditions they are intended to satisfy is provided below.

Condition (l)

Condition (l) of the Secretary's approval of the New Mexico program stipulates that the approval found in section 931.10 will terminate on March 15, 1983, unless New Mexico submits to the Secretary by that date, copies of fully implemented regulations for the protection of endanged species in accordance with 30 CFR 786.19 or otherwise amends its program to accomplish the same result.

New Mexico regulation 11-19(o) as initially submitted by New Mexico for the Secretary's approval provided that the regulatory authority shall not approve a permit or a revision to a permit unless the Director finds that the activities "would not affect the continued existence of endangered or threatened species, indigenous to the State, or result in the destruction or adverse modification of their critical habitats contrary to State or Federal Law." As discussed in finding 4(d)(vi) in the December 31 1980 Federal Register notice, announcing the Secretary's conditional approval of New Mexico's program (45 FR 86468), the Secretary found that the State's use of the phrase "indigenous to the State" in conjunction with "endangered or threatened

species" limited the protection to only those species that are native and not introduced. The Secretary found that New Mexico's regulation would not provide adequate protection to migratory species or species that merely pass through the State periodically, but do not necessarily establish any form of permanent resident status.

Consequently, as a condition of approval, the Secretary required that New Mexico amend regulation 11–19(o) to be consistent with the federal regulation at 30 CFR 786.19(o) which provides for the protection of migratory and other endangered or threatened species as determined under the Endangered Species Act of 1973.

On July 9, 1982, New Mexico submitted an amended version of State regulation 11–19(o) which included a reference to the Endangered Species Act of 1973 (16 U.S.C. 153 et seq.). However, the Secretary found that the manner in which the new language had been inserted in State regulation 11–19(o) did not broaden the protection to include migratory species.

Because New Mexico submitted material to satisfy this condition on July 9, 1982, which the State, in good faith, believed to be adequate, the Secretary decided to extend the date for New Mexico to satisfy condition (1) to March 15, 1983, in order to allow the State time to draft a further revision to its program to address the deficiency noted above (47 FR 47377).

On March 15, 1983, New Mexico submitted a revision of regulation 11–19(o) which amends the July 9, 1982 version to read as follows:

"11–19 Criteria for permit approval or denial.

(o) The Director has found that the activities would not affect the continued existence of endangered or threatened species, indigenous to the State or any other species protected under the Endangered Species Act of 1973, or result in the destruction or adverse modification of their critical habitats contrary to State or Federal law."

The Secretary solicits comment on whether the above revised version of regulation 11–19(o) is consistent with 30 CFR 786.19 and satisfies condition (1).

Condition (h)

Condition (h) of the Secretary's approval of New Mexico's program stipulates that the approval found in Section 937.10 will terminate on March 15, 1983, unless New Mexico submits to the Secretary by that date copies of fully enacted regulations governing a Small Operators Assistance Program (SOAP) in accordance with 30 CFR 795, or otherwise amends its program to accomplish the same result.

To address this condition, New Mexico submitted on March 15, 1983, regulations amending Rule 80–1 adopted by the New Mexico Coal Surface Mining Commission which provide for a Small Operators Assistance Program. The full text of these regulations is available for public review at the OSM addresses listed above. The Secretary is soliciting comment on wether the regulations submitted by the State are consistent with SMCRA and no less effective than the Federal SOAP rules at 30 CFR 795.

Condition (b)

Condition (b) of the Secretary's approval of New Mexico's program requires that the State provide copies of fully implemented procedural regulations for hearings on petitions to designate lands unsuitable for surface coal mining in accordance with 30 CFR 764.17, or otherwise amends its program to accomplish the same result.

As discussed in finding 4(k)(ii) in the December 31, 1980 **Federal Register** notice, announcing conditional approval of New Mexico's program (45 FR 86474), the Secretary was concerned that the State's requirement that the hearing be adjudicatory conflicted with the provision of 30 CFR 764.17 that the hearing be legislative and fact-finding in nature, without cross-examination of witnesses. OSM acknowledged that the type of "adjudicatory" hearing which has a well-developed tradition in New Mexico regulatory agencies might be consistent with Federal requirements since any person can elect that the hearing, as it involves his or her testimony, be strictly legislative in nature and thus the procedure would not have a chilling effect on the designation petition process. However, because New Mexico's hearing process was not formalized, the Secretary found that he could not determine if the State's approach is consistent with Federal requirements.

On July 9, 1982, New Mexico submitted to OSM an amendment to regulation 4–17(a) which deleted the requirement that the hearing be adjudicatory in nature. However, the State did not add any language to clarify just how the hearing would proceed.

Because the amended regulation submitted by New Mexico on July 9, 1982, did not fully satisfy the condition, the Secretary extended the date for New Mexico to satisfy condition (b) in order to allow the State time to draft further modifications to its program. The date was extended from July 31, 1982 to March 15, 1983 (47 FR 47377, October 26, 1982).

On March 14, 1983, New Mexico submitted a copy of procedures adopted by the Mining and Minerals Division for conducting hearings to consider petitions to declare lands unsuitable for coal surface mining operations under the New Mexico program. The procedures are to be used by the Director of the Division in conducting all unsuitability petition hearings filed with the Division. The Secretary invites comment on whether the procedures submitted by New Mexico are no less effective than the Federal provisions at 30 CFR 764.17 in meeting the purposes of SMCRA.

Condition (j)

The Secretary also solicits comment on the State's request by letter dated March 15, 1983 for an extension of the deadline to satisfy condition (j) pertaining to the State's bonding regulations. The State has requested an extension until four months following promulgation of revisions to the Federal bonding rules in order to allow the State time to draft modifications to its own rules and meet the notice and hearing requirements of it approved program. It is anticipated that revisions to the Federal rules will have a bearing on the changes New Mexico will be required to make to satisfy condition (j). Promulgation of revisions to the Federal rules is expected to occur within approximately six months.

Additional Determinations

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

2. *Executive Order 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 931

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

Dated: April 5, 1983.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-9648 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL No. 2324-4]

Approval and Promulgation of Implementation Plans: Connecticut; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This Notice proposes action on proposed 1982 State Implementation Plan (SIP) revisions for the State of Connecticut which were submitted on June 15, 1982; September 29, 1982; December 10, 1982 and January 7, 1983. The intended effect of these revisions is to control emissions of volatile organic compounds (VOCs) and carbon monoxide in order to attain the ozone and carbon monoxide National Ambient Air Quality Standards (NAAQS) as required under Part D of the Clean Air Act. Public comments on this document are requested and will be considered before taking final actions on these SIP revisions.

DATE: Comments must be received on or before May 12, 1983.

ADDRESSES: Comments may be sent to Harley F. Laing, Director, Air Management Division, JFK Federal Building, Room 2312, Boston, Massachusetts 02203. Copies of the submittal and, EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Building, Boston, Massachusetts 02203; and the Connecticut Department of Environmental Protection, State Office Building, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Susan S. Hager, (617) 223-5130.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Clean Air Act (the Act) requires that states with areas that violate the primary NAAQS submit revisions to their SIPs in 1979 which demonstrate attainment of the NAAQS by December 31, 1982. For states unable to demonstrate attainment of the ozone and carbon monoxide standards by 1982, the Act allows an extension until 1987. In order to receive an extension until 1987, states were required to adopt, as part of their 1979 attainment plans, control strategies considered to be reasonably available at that time and to commit to the submission of additional revisions by July 1, 1982.

Connecticut's 1979 attainment plan included controls on specific stationary sources of VOC's, a commitment to implement an automobile inspection and maintenance program, and various transportation control measures. Connecticut was unable to demonstrate attainment of the ozone and carbon monoxide standards by 1982 and, therefore, the Governor requested an extension until 1987. EPA approved this request on December 23, 1980 (see 45 FR 84769).

EPA policy requires that the SIP revisions due by July 1, 1982 include: a demonstration of attainment by 1987, stationary source control measures, implementation of a vehicle inspection and maintenance program and transportation control measures. These requirements are discussed in detail in a policy document published on January 22, 1981 (see 46 FR 7182).

Connecticut submitted draft 1982 revisions to its ozone and carbon monoxide SIP on June 15, 1982, and September 29, 1982. After reviewing these revisions, EPA notified the State that the revisions did not meet federal requirements and that EPA would propose to disapprove the State submittal. On December 10, 1982 and January 7, 1983 the State submitted additional material intended to correct deficiencies. Before EPA completed its review of the additional material, a Notice of Proposed Rulemaking was published on February 3, 1983 at 48 FR 5054 which proposed disapproval of the Connecticut SIP revisions.

EPA has now reviewed all submittals from the State of Connecticut and finds that the proposed revisions, with exceptions as discussed below, meet EPA requirements for 1982 SIP revisions. EPA is, therefore, publishing this notice which discusses the draft Connecticut 1982 SIP revisions in their entirety. EPA has proposed an approval of elements which fully meet federal requirements; and a qualified approval of those elements which do not fully meet EPA requirements and for which EPA has assurance that Connecticut will correct the deficiencies prior to EPA taking final action. The 1982 SIP contains new and quantifiable emission reductions which will be achieved through reasonably available control technology (RACT) regulations for major sources, vehicle inspection and maintenance, and transportation control measures. The ozone and carbon monoxide modeling analyses demonstrate that Connecticut will attain these standards by December 31, 1987. EPA has prepared a separate technical support document which discusses in detail the State's submittal and its compliance with EPA requirements. Anyone wishing additional information may request a copy of this document from the Regional Office at the above location. The following sections of this Notice summarize EPA's findings and proposed actions.

Our review of the State submittal is divided into three parts:

A. Ozone

- Summary
- Emissions Inventories
- Air Quality Data
- Attainment Demonstration
- Stationary Source Controls
- Inspection and Maintenance
- Transportation Control Measures
- Reasonable Further Progress

B. Carbon Monoxide

- Summary
- Air Quality Data
- Attainment Demonstration and Reasonable Further Progress
- Transportation Control Measures

C. Additional Requirements

- Resources
- Public Participation and Intergovernmental Consultation Documentation

A. Ozone

1. *Summary.* Ozone is formed by complex chemical reactions involving various precursors, primarily consisting of oxides of nitrogen (NO_x) and a class of hydrocarbons called reactive VOCs. Emissions of VOCs are controlled in order to reduce ozone concentrations.

Connecticut is divided into four Air Quality Control Regions, but uses its state boundaries to define the analysis area for ozone. The ozone modeling analysis indicates that a 48% emission reduction will be required to eliminate violations of the ozone standard.

The proposed Connecticut 1982 State Implementation Plan (Connecticut 1982 SIP) combines a mix of strategies—stationary and mobile source—to

achieve the necessary reductions. The State has proposed a SIP which, if approved, would provide in 1987 a 30,000 kg/day reduction of VOCs greater than that needed to achieve ozone standards. This is called an "accommodative" SIP and allows a margin of growth for new sources to construct or for existing sources to expand without being required to obtain a "one for one" offset for their resulting emission increases.

2. *Emissions Inventories.* For the 1982 SIP, states are required to submit comprehensive emissions inventories indicating 1980 and attainment year emission levels from all sources of VOCs and No.

Connecticut submitted inventories for mobile sources and for area sources (those stationary sources too small to be inventoried individually) on September 29, 1982, and for point sources on April 8, 1982. EPA finds that the mobile source inventory meets EPA guidance. However, the State did not submit documentation on how emission figures for point sources were derived. EPA has asked the Department of Environmental Protection (DEP), and DEP has agreed, to provide this documentation with the final SIP submittal.

Within the area source inventory the State may have underestimated emissions in several categories by as much as 14,000 kg/day. If the State accepts EPA's higher estimate of emissions in these categories, the State will still be able to achieve ozone standards by 1987 since the SIP provides a 30,000 kg/day emission reduction greater than necessary to show attainment. However, any increase in projected emissions will have the effect of decreasing the margin of emissions growth the SIP allows for new sources to construct or existing sources to modify. EPA has, therefore, notified the State that the full growth margin proposed in the submitted cannot be accepted until questions on area source emission projections have been resolved.

Proposed Action: EPA is proposing to:

(1) Approve the mobile source inventory,

(2) Approve the area source inventory, provided Connecticut submits additional documentation prior to EPA taking final action, and

(3) Approve the area source inventory with the understanding that EPA can only accept a 16,000 kg/day growth margin until Connecticut resolves questions in those categories of source emissions which EPA believes may be underestimated.

3. *Air Quality Data.* The 1982 plan revisions are to include the best data available at the time of SIP development. The most recent three years of air quality data from the State monitoring network must be reduced, validated and summarized. Connecticut has complied with the requirement to present current ozone-related data. However, as will be discussed in the next section of this notice, it did not use current data for the modeled attainment demonstration.

The highest one-hour concentration of ozone for the years 1978 through 1980 was .30 ppm, or approximately 2½ times the standard, recorded at Stratford, Connecticut in July, 1980. This value, however, does not represent the ozone level which would occur due to emissions solely from sources within Connecticut. Rather, the value reflects peak ozone levels resulting from both emissions generated within the State and emissions being transported from other states into Connecticut. Connecticut is responsibile for controlling sources within the State only to the extent that they would cause violations of the ozone standard and, thus, the highest monitored concentrations will not necessarily be those used to model the attainment demostration.

Proposed action. EPA is proposing to approve the air quality data base.

4. *Attainment Demonstration.* In order to insure consistency in demonstrating attainment by 1987, EPA encouraged each state to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). Connecticut studied the use of City-Specific EKMA, but concluded that the model could not be used in the development of the 1982 SIP revisions. The State objects to City-Specific EKMA because it feels that the contribution of VOCs from the northern New Jersey—Metropolitan New York city area is so great that any measurement of Connecticut-generated VOCs would be unreliable. An additional problem is that the DEP operated a non-conventional hydrocarbon monitor which gave readings far higher than those recorded by other states using conventional monitors (see EPA guidance on monitoring, EPA 450/4–80–011). Since hydrocarbon data are a critical input into City-Specific EKMA, and since the State feels other inputs would also be only estimates of true values, the State has concluded that City-Specific EKMA cannot adequately model Connecticut's ozone levels. In lieu of City-Specific EKMA, the State has used the analysis from the 1979 SIP revisions based on the less refined mode, Standard EKMA, and EPA has concurred in this decision. In cases where a state has not based its 1982 SIP revisions on the most recent data, the SIP must discuss how the more current data could affect the plan. Connecticut has commited to include this information in the final SIP narrative.

The State has also agreed to work with EPA prior to EPA taking final action to resolve questions concerning hydrocarbon monitoring equipment, and once resolved, to collect hydrocarbon and NO_x data necessary for a refined ozone modeling analysis.

As discussed in the submittal, the State looked at violations within its boundaries which were caused by emissions from Connecticut sources. The results of the modeling are as follows:

OZONE SUMMARY TABLE

Nonattainment area	Design* value (ppm)	Receptor location	Percent reduction required	Attainment year
Connecticut—Statewide	0.148	Groton, Ct	48	1987

* The "daily design value" is used to refer to the measured maximum hourly ozone value for the day being modeled. (See "Guidelines for Use of City-Specific EKMA in Preparing Ozone SIP," EPA 450/4–80–027).

Proposed Action: EPA is proposing to approve the attainment demonstration with the understanding that the final submittal will discuss how current data could affect the plan.

5. *Stationary Source Controls.* The Clean Air Act requires states to implement all required stationary source controls as expeditiously as practicable. In order to complete the requirement to adopt all reasonably available control measures, states must include, as part of the 1982 submittal, adopted regulations applying RACT to the following categories of sources: (a) All sources of VOCs covered by a Control Technique Guideline (CTG) and (b) all remaining major stationary sources of VOCs (defined under Section 302(j) of the Act as having more than 100 tons per year (TYP) emissions). EPA requires the submittal to include either legally enforceable measures implementing RACT on these sources, or documentation supporting a determination by the State that the current level of control represents RACT for each of these sources.

(a) Controls on Source Categories Covered by CTGs.

The CTGs are divided into three groups, Group I, Group II and Group III:

(i) Connecticut has adopted, and EPA has approved, controls for all Group I CTG source categories with the exception of solvent metal cleaners. This was a deficiency of the 1979 plan revisions which caused EPA on October 12, 1982 (47 FR 44729) to impose a moratorium on stationary source VOC growth as required by section 110(a)(2)(I) of the Act. The State has adopted revisions to Connecticut Regulation 19–508–20(*l*) which controls solvent metal cleaners. While the proposed revisions corrected most of the noted deficiencies, the regulation still exempts from control requirements for cold cleaners at automobile repair facilities. EPA believes that adequate control can be achieved through a public education program for the use of covers on cold cleaners at automobile repair facilities and requested such a program as part of the final submittal. Connecticut has submitted proposed revisions to the SIP narrative which commit to providing an educational program which EPA is proposing to accept. EPA approval will allow the moratorium on stationary source growth in Connecticut to be lifted.

(ii) In the Group II CTG categories, Connecticut has adopted, and EPA has approved, controls for all but two categories: external floating roof tanks, and gasoline tank trucks. Connecticut has committed to submit RACT regulations for these two source categories according to the following schedule:

Action	Date
Conduct a Public Hearing	Sept. 30, 1983.
Adopt Regulations	Dec. 31, 1983.
Final Compliance for Tank Trucks	May 1, 1984.
Final Compliance for External Floating Roof Tanks.	July 1, 1984.

This makes this portion of the SIP approvable.

(iii) For Group III CTG categories, the State is to adopt controls within one year of the January after a CTG for a particular source category is published. The Connecticut 1982 SIP does not make this commitment specific to the Group III CTGs; however, as stated in 40 CFR 52.383, the State is obligated to adopt these controls. At this time, EPA has published one Group III CFR category, petroleum solvent dry cleaners, in September 1982. Thus, Connecticut must adopt controls on this category by January 1984.

Proposed Action: EPA is proposing to:

(1) Approve revisions to Connecticut Regulation 19-508-20(1) and proposed narrative revisions as meeting the requirement to adopt controls on all Group I CTG source categories.

(2) Lift the moritorium on growth of stationary sources of VOCs in Connecticut.

(3) Approve the State commitments for tank trucks and external floating roof tanks with the understanding that:

(a) The State will adopt gasoline tank truck and external floating roof tank regulations for submittal into the SIP,

(b) The adopted regulations will be RACT, and

(c) The programs will start up as expeditiously as possible, but no later than May 1, 1984 for tank trucks, and July 1, 1984 for external floating roof tanks.

(b) The TPY RACT Regulation. Connecticut submitted a generic RACT regulation, Connecticut Regulation 19–508–20(ee), for the control of all VOC sources that emit 100 tons per year (TPY) or more, not currently regulated under existing Connecticut regulations.

This regulation was submitted to fulfill the 1982 SIP policy requirement to control 100 TPY non-CTG sources. Although the regulation, as written, does not establish federally enforceable emission limitations, Connecticut has agreed to revise the narrative portion of the SIP to state that each individual RACT determination made pursuant to the regulation will be submitted to EPA for approval as a Sip revision.

Proposed Action: EPA is proposing to approve Connecticut Regulation 19–508–20(ee) as meeting the requirement to control VOC sources with actual emissions of 100 TPY or more, provided the State submits the necessary changes to the SIP narrative prior to EPA's final action.

6. *Inspection and Maintenance.* All major urban areas needing an extension beyond 1982 for attainment of a standard for ozone or carbon monoxide were required to include vehicle inspection and maintenance as an element of the 1979 SIP revision. Connecticut included inspection and maintenance in its 1979 SIP revision. EPA's evaluation of, and action on, the inspection and maintenance portion of the Connecticut 1979 SIP revision is documented in the December 23, 1980 **Federal Register** (see 45 FR 84769).

As discussed in the January 22, 1981 **Federal Register** on 1982 SIP policy (see 46 FR 7182), states with areas that have inspection and maintenance programs under development, or operational as part of their 1979 SIP revisions, were required to submit only qualitative descriptions of their inspection and maintenance program elements in the 1979 SIP submittal. Unless already submitted and approved as part of a previous SIP submittal, the 1982 SIP revision must include the rules and regulations needed to implement the inspection and maintenance program to achieve the minimum emission reduction requirements and commitments to other program details. EPA will determine the overall adequacy of the critical elements of each inspection and maintenance program and, therefore, the approvability of that portion of the 1982 SIP by comparing those elements to the established inspection and maintenance guidance. Draft rules and regulations and information on all program elements with the exception of quality control, audit and surveillance procedures have been reviewed by EPA and determined to be approvable once they are finalized. While EPA's own estimate of the projected effectiveness of the State's inspection and maintenance program indicates that the emissions reduction will be achieved, the State's draft submittal does not clearly show that this is the case. Therefore, although Connecticut has successfully implemented its program by January 1, 1983, Connecticut must submit the following information in the final plan revisions:

- Department of Motor Vehicle (DMV) and DEP regulations, contracts, and memoranda of understanding necessary to support the inspection and maintenance program,
- Quality control, audit and surveillance procedures for contractor and fleet stations, and
- Support information to show how the emission reductions claimed for the inspection and maintenance program were calculated.

Proposed Action: EPA is proposing to approve the Connecticut inspection and maintenance program provided the above information is submitted and found acceptable prior to EPA taking final action.

7. *Transportation Measures.* State and regional agencies have been involved in the evaluation and recommendation of reasonably available transportation control measures (RACMs) for the Connecticut 1982 SIP in accordance with EPA guidance. As a result, the State has adopted measures such as ride-share programs and traffic flow improvements. A description of the process and procedures for identifying transportation contingency measures where emission shortfalls may occur is also included in the SIP. Connecticut proposes to meet its basic transportation needs (BTN) by

maintaining, and where possible, improving ridesharing and public transportation projects to the extent that State and Federal funds will allow.

While the submittal does commit to an annual reduction of VOC emissions, which accounts for 1425 kg/day in 1987, it does not show the emission reduction attributable to individual RACMs or categories of RACMs as required by EPA policy. Further, the State has not supported the annual target reductions with commitments, schedules of key milestones and, where appropriate, evidence of legal authority. Additionally, EPA believes the submittal does not adequately address the monitoring plan requirements for tracking the effectiveness of adopted RACMs. The submittal also needs clarifications with regard to the plan, program and project level conformity provisions. The State has committed to including these changes.

Proposed Action: EPA is proposing approval of the Transportation Measures portion of the Connecticut submittal with the understanding that the final revisions will: (1) Show emissions attributable to individual RACMs or RACM categories, (2) provide additional information to support the annual emission reduction targets, (3) describe an acceptable monitoring plan, and (4) clarify plan, program and project level conformity provisions.

8. Reasonable Further Progress. The Connecticut 1982 SIP indicates that the State will attain the ozone standard by December 31, 1987. The demonstration is acceptable, although, as discussed above under Section 4, Stationary Source Controls, EPA is only proposing approval of that portion of the growth margin which is based on inventory projections accepted by EPA. An additional 14,000 kg/day of VOCs in years 1982 through 1987 will be accepted by EPA as allowance for growth if the State resolves questions in several area source inventory categories.

Proposed Action: EPA is proposing to approve the Reasonable Further Progress demonstration and the associated growth margin minus 14,000 kg/day as explained above. EPA may approve a larger growth margin if Connecticut resolves questions in several area source inventory categories prior to EPA taking final action.

B. Carbon Monoxide

1. *Summary.* Carbon Monoxide violations are primarily caused by automobile emissions and are generally associated with traffic congestion at the intersection of major roads or in a central business district. At these locations, vehicles may idle for relatively long periods of time. The emissions during this time period are very high and are less diluted. These problem areas are called hotspots. The only violations of the carbon monoxide standards in Connecticut are hotspot violations.

2. *Air Quality Data.* The 1982 plan revisions are to include the best data available at the time of SIP development. The most recent three years of air quality data from the State monitoring network must be reduced, validated and summarized. Connecticut submitted data for each of its nine carbon monoxide monitoring sites for the years 1978–80. The data shows that the highest second high eight-hour violation was 27.5 ppm recorded at Stamford, Connecticut in 1978. The eight-our carbon monoxide standards is 9 ppm which may be exceeded once per year. The second highest exceedence of the standard is, therefore, a violation of the standard and that value is used as the design value, for which a control strategy is developed.

Proposed Action: EPA is proposing to approve the air quality data base.

3. *Attainment Demonstration and Reasonable Further Progress:* In order to determine the extent and serverity of carbon monoxide violations, Connecticut ranked likely hotspot locations using EPA's "Carbon Monoxide Hotspot Screening Guidelines" (EPA–450/3–78–033–035). Additionally, the State has committed analyzing the top-ranked modeled and monitored violations with a more refined dispersion model approved by EPA, Caline 3. The State has committed to complete the analysis by February 28, 1983. Since the refined analysis has not yet been completed, Connecticut's proposed attainment demonstration and Reasonable Further Progress lines were based only on a rollback model. A rollback model assumes changes in ambient levels will be directly proportional to changes in emission levels, and does not consider parameters critical to an accurate assessment of carbon monoxide levels such as meteorology and site geometry. EPA can accept this on an interim basis, but before final approval, Connecticut must submit a carbon monoxide attainment demonstration and Reasonable Further Progress lines which are based on a dispersion model and on current ambient data.

Proposed Action: EPA is proposing to approve the attainment demonstration and Reasonable Further Progress lines based on the understanding that the State will submit a dispersion analysis prior to EPA taking final action.

4. *Transportation Control Measures:* Measures adopted by Connecticut to reduce VOC emissions will also reduce carbon monoxide levels at hotspots. The most of these measures for carbon monoxide reductions are inspection and maintenance, traffic flow improvements, and the right-turn-on-red program. The State will implement site-specific measures if the refined modeling shows that additional measures are needed to attain standards at a particular location.

Proposed Action: EPA has proposed action under "Transportation Measures" of the ozone section of this Notice; no separate action is being proposed.

C Additional Requirements

1. *Resource Commitments.* In order to assure that the control strategies included in the 1982 attainment plan are implemented, EPA has requested that the State show the financial support which will be associated with these actions. In its submittal, the State commits to measures necessary to demonstrate attainment of the ozone and carbon monoxide standards. The State has indicated that the final 1982 SIP submission will discuss the State's commitment to provide the resources needed to implement the measures.

Proposed Action: EPA is proposing to approve this portion of the SIP, with the understanding that the State will provide a commitment to resources prior to EPA taking final action.

2. *Public Participation and Intergovernmental Consultation Documentation.* The State has established a mechanism for ongoing public participation in the development of stationary source and transportation control measures and has implemented a program to promote greater awareness of air quality problems by the public. All of the public participation programs have been developed in accordance with EPA guidelines. However, these programs have been only briefly described in the proposed 1982 SIP revisions. EPA has asked the State to more fully describe its program in the final submittal.

Proposed Action: EPA is proposing to approve this portion of the SIP with the understanding that Connecticut will submit additional information.

II. Summary of Proposed Action

EPA is proposing to approve the Connecticut 1982 State Implementation Plan Revisions for ozone and carbon monoxide, which were submitted in draft on June 15, 1982, September 29, 1982, December 10, 1982 and January 7, 1983. Specifically, EPA is proposing the following actions:

1982 SIP element	Proposed action
A. Ozone	
Emissions Inventory	Qualified Approval.
Air Quality Data	Approval.
Attainment Demonstration	Qualified Approval.
Stationary Source Controls	Qualified Approval.
Inspection and Maintenance Program.	Qualified Approval.
Transportation Control Measures	Qualified Approval.
Reasonable Further Progress	Qualified Approvals.
B Carbon Monoxide	
Air Quality data	Approval.
Attainment Demonstration and RFP	Qualified Approval.
Transportation Control Measures	(No separate action proposed.)
C. Additional Requirements	
Resources	Qualified Approval.
Public Participation and Intergovernmental Consultation Documentation.	Approval.

EPA is soliciting public comments on issues discussed in this notice, and the Notice published on February 3, 1983 or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting a written document to the EPA address in the **ADDRESSES** section above.

If the State corrects the deficiencies prior to EPA taking final action, EPA approve Connecticut's plan revisions. If the proposed revisions are substantially changed, in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made, EPA will issue a notice of final rulemaking on the revisions. The final rulemaking action by EPA will be published only after the SIP revisions have been adopted by Connecticut and submitted to EPA for incorporation into the SIP. Under 5 U.S.C. 605(b), the Administrator has certified that SIP actions do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OBM) for review. Any comments from OBM to EPA, and any EPA response, are available for public inspection at the EPA Region I office listed above. The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

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

Dated: January 19, 1983.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 83-9430 Filed 4-11-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 403

[WH-FRL 2343-7]

Hawaii's Application To Administer the National Pollutant Discharge Elimination System (NPDES) Pretreatment Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application.

SUMMARY: The State of Hawaii, in a letter from Charles G. Clark, Director of the Hawaii Department of Health, requested approval of the State of Hawaii Pretreatment Program. The State submitted a signed statement of the Hawaii Attorney General that the State of Hawaii has the necessary authority, together with a signed revision to the NPDES Memorandum of Agreement and a description of how the State proposes to operate the program. The U.S. EPA Regional Counsel has reviewed the Attorney General's Statement and has determined that the State of Hawaii has the legal authority to implement an NPDES Pretreatment Program. This notice provides for a comment period on Hawaii's request. Under U.S. EPA regulations the Administrator shall approve or disapprove this request after taking into consideration all comments received.

DATE: To be considered, comments must be received on or before May 12, 1983. Interested persons may also request a public hearing on the State's request. If there is a significant public interest expressed in the comments, U.S. EPA will schedule such a hearing. In the event U.S. EPA determines to hold a public hearing prior notice of the date, time and location of such a hearing will be given. All requests for a public hearing must be submitted on or before the expiration of the comment period.

ADDRESSES: Interested persons should submit comments to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Linda Powell, Pretreatment Coordinator (W-5-2), U.S. EPA, Region IX, Water Management Division, 215 Fremont Street, San Francisco, California 94105, (415) 974-8311.

SUPPLEMENTARY INFORMATION: On June 26, 1978, the United States Environmental Protection Agency (U.S. EPA) promulgated the General Pretreatment Regulations (40 CFR Part 403). Amendments to the General Pretreatment Regulations were promulgated on January 28, 1981. These regulations, mandated by the Clean Water Act of 1977 (Pub. L. 95-217), govern the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs), commonly referred to as municipal sewage treatment plants. The objectives of the regulations are to: (1) Prevent introduction of pollutants into POTWs which will interfere with plant operations and/or disposal or use of municipal sludges; (2) prevent introduction of pollutants into POTWs which will pass through treatment works in unacceptable amounts to receiving waters; and, (3) improve the feasibility of recycling and reclaiming municipal and industrial wastewaters and sludges.

The State of Hawaii received NPDES permit authority on November 28, 1974. One of the keystones of the industrial waste control program as set forth in the General Pretreatment Regulations is the establishment of Pretreatment Programs as a supplement to the existing State National Pollutant Discharge Elimination System (NPDES) permit program. In order to be approved, a request for State Pretreatment Program approval must demonstrate that the State has legal authority, procedures, available funding, and qualified personnel to implement a State Pretreatment Program as specified in Section 403.10 of the regulations. Generally, local Pretreatment Programs will be the primary vehicle for administering, applying and enforcing Federal Pretreatment Standards for Industrial users of POTWs. States will be required to apply and enforce Pretreatment Standards directly against industries that discharge to POTWs where local programs are not required or have not been developed.

The Administrator's decision to approve or disapprove the proposed pretreatment program will be based on a determination of whether the proposed program meets the requirements of the Clean Water Act and 40 CFR Part 403 and on the comments received.

The Hawaii submission may be reviewed by the public at the following locations: Director of Environmental

Health, Hawaii State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801, (808) 548–6410 and at the U.S. EPA office in San Francisco at the address appearing at the beginning of this Notice. Copies of the submittal may also be obtained (at a cost of 20 cents a page) from these offices.

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 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, and Water pollution control.

Dated: March 29, 1983.

John Wise,

Acting Regional Administrator, Region IX.

[FR Doc. 83-9625 Filed 4-11-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 83-115; ENF-83-5]

Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies; North American Telecommunications Association

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of comment/reply comment period.

SUMMARY: The Commission has issued an order partially granting parties' motions for extensions of time in which to file comments and reply comments on the Commission's Notice of Proposed Rulemaking which addresses the questions whether, following divestiture, Bell Operating Companies' offering of enhanced services, customer premises equipment or cellular communications services should be subject to structural separation requirements and, if so, whether the degree of separation currently prescribed by Commission Rules should be modified to accommodate the effects of the BOCs' divestiture. The extension of time was granted in order to permit parties the opportunity to thoroughly analyze complex issues.

DATES: Comments by interested parties are due on or before April 25, 1983; reply comments are due on or before May 25, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Paul B. Froyd, Common Carrier Bureau (202) 632–4887.

Order

In the Matter of: Policy and Rules concerning the furnishing of customer premises equipment, enhanced services and cellular communications services by the Bell Operating Companies; CC Docket No. 83–115; North American Telecommunications Association; ENF–83–5; Petition for Declaratory Ruling on the requirements of sale of customer pemises equipment by the Bell Operating Companies (3–29–83; 48 FR 13056).

Adopted: March 31, 1982.
Released: April 1, 1983.

By the Chief, Common Carrier Bureau.

1. On March 18, 1983, Telocator Network of America (Telocator), filed a motion for an extension of time for the filing of comments and reply comments in the above-captioned proceeding until May 2, 1983 and June 2, 1983, respectively. According to the Notice of Proposed Rulemaking (Notice), FCC 83–71, released March 4, 1983, comments are due April 4, 1983 and reply comments are due May 4, 1983. Telocator, the national council of the independent, non-wireline radio common carriers (RCC) industry, argues that the Notice goes to the core of the competitive balance between the wireline and RCC industry, and that 30 days is insufficient time for parties to assist in the development of a sufficient record on this matter.

2. On March 29, 1983, Rolm Corporation (Rolm) filed a motion for an extension of time for the filing of comments until July 5, 1983. Rolm argues that Computer II involves complex issues that were carefully developed over a long period of time and have become more complicated as a result of recent events, particularly the Modified Final Judgment in *U.S. v. American Telephone and Telegraph Co.*, Civ. Nos. 74–1698 and 82–0192, 47 FR 40,392 (D.D.C. 1982). Rolm further argues that at least the basic principles for the MJF's reorganization must be settled and analyzed before parties to this proceeding can comment on the divestiture's likely impact. A March 30, 1983 letter from the Independent Data Communications Manufacturers Association, Inc. supports Rolm's request.

3. On March 30, 1983, the Associated Bell System Companies (BOCs) filed an opposition to an extension of time. The BOCs argue that even under the schedule established by the Notice, a decision could not be expected before June, 1983. They note that if a separate subsidiary structure were required, commencement of BOCs' competitive operations after divestiture on January 1, 1983, would require the filing of capitalization plans on July 1, 1983. In general, the BOCs claim that they must know as soon as possible the conditions under which they may conduct competitive activities after divestiture in order to determine whether and to what extent they will pursue these activities.

4. While commenting parties are entitled to an opportunity to thoroughly explore pertinent issues, the comment period must take into account the need for Commission action in timely fashion so as to enable the BOCs to plan post-divestiture operations. Rolm and Telocator have failed to demonstrate that their requested extensions fairly balance these interests. However, a brief extension of time will not result in an unacceptable delay in the Commission's ability to reach a timely decision.

5. Accordingly, *it is ordered* That, pursuant to Sections 0.291 and 1.46 of the Commission's Rules and Regulations, 47 CFR 0.291, 1.46, the time afforded all interested parties for the filing of comments in the above-captioned proceeding *is extended* to April 25, 1983 and the time for the filing of reply comments *is extended* to May 25, 1983.

Jack D. Smith,

Deputy Chief (Operations), Common Carrier Bureau.

[FR Doc. 83-9552 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-242; RM-4289]

TV Broadcast Stations in Minneapolis-St. Paul, Minnesota; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 45 to Minneapolis-St. Paul, Minnesota, in response to a petition filed by Millard V. Oakley. The proposed assignment could provide for a seventh commercial television service to Minneapolis.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the Matter of: Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Minneapolis-St. Paul, Minnesota); MM Docket No. 83-242 RM-4289

Adopted: March 14, 1983.
Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Millard V. Oakley ("petitioner") on December 30, 1982, proposing the assignment of UHF Television Channel 45 to Minneapolis, Minnesota. Petitioner stated that he or an entity of which he is a part, will apply for the channel, if assigned.

2. Minneapolis (population 370,951), seat of Hennepin County (population 941,411) [1] is located in southeastern Minnesota, approximately 560 kilometers (350 miles) northwest of Chicago, Illinois. Minneapolis has licensed to it commercial channels: 4 (WCCO-TV), 9 (KMSP-TV), 11 (WTCN-TV), 23 (KTMA-TV), and 29 (WFBT-VT).

3. In support of his proposal, petitioner submitted population data and provided 1981 statistics on consumer spendable income and retail sales for Hennepin County. We believe that the petitioner's proposal warrants consideration. Currently all TV channels licensed to Minneapolis or St. Paul are assigned to the two cities on a hyphenated basis. Therefore, we are proposing this amendment of the TV Table of Assignments in a consistent fashion:

City	Channel No.	
	Present	Proposed
Minneapolis-St. Paul, Minnesota.	* 2-, 4, 5-, 9+, 11-, * 17, 23+, and 29+.	* -2, 4, 5-, 9+, 11-, * 17, 23+, 29+, and 45.

4. Since Minneapolis-St. Paul is located within 400 kilometers (250) miles of the United States-Canadian border, the proposed assignment of Television Channel 45 to Minneapolis-St. Paul, Minnesota, requires coordination with the Canadian government.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitute an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitute an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 808, 48 stat., as amended, 1066, 1982; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it *is proposed to amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleaddings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b), and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments,

[1] Population figures are taken from the 1980 U.S. Census Advance Reports.

reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-9549 Filed 4-11-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-232; RM-4321]

FM Broadcast Stations in Reno, Nevada; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 272A to Reno, Nevada, in response to a petition filed by Millard V. Oakley. The proposal could provide a fifth FM service to that community.

DATES: Comments must be filed on or before May 12, 1983, and reply comments on or before May 27, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the Matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Reno, Nevada) MM Docket No. 83-323; RM-4321.

Adopted: March 14, 1983.
Released: March 28, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed January 3, 1983, by Millard V. Oakley ("petitioner") seeking the assignment of Channel 272A to Reno, Nevada, as its fifth FM assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed channel could provide a fifth FM service to Reno, the Commission believes that it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Reno, Nevada	238, 283, 289, and 295.	238, 272A, 283, 289, and 295.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before May 12, 1983, and reply comments on or before May 27, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 635-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in the docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed

comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-9550 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 71
Tuesday, April 12, 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.

ACTION

Extension of Deadline for Submission of State Office of Voluntary Citizen Participation Grant Application

AGENCY: ACTION.

ACTION: Notice.

SUMMARY: The Final Notice of Guidelines for State Office of Voluntary Citizen Participation (S/OVCP Program Grants) was published in the Federal Register Vol. 45, No. 65 on Wednesday, April 2, 1980. That Notice outlined the substantive programmatic criteria to be consideed in reviewing applications under the S/OVCP Program and included time deadlines to be followed in the application process. This present Notice extends the deadline for submission of grant applications for (S/OVCP) grants in order to expand the base of consideration of potential grantees.

EFFECTIVE DATE: April 12, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth Priebe, OVL, ACTION, Room M-207, 806 Connecticut Ave., N.W., Washington, D.C. 20525, Telephone Toll-Free (800) 424-8867.

SUPPLEMENTARY INFORMATION: For the reasons set out above, the Final Notice of Guidelines for State-Office of Voluntary Citizen Paticipation (S/OVCP Program Grants) 45 FR 21663 are amended as follows:

Applicants for an S/OVCP Program Grant must submit by April 30, 1983, a completed Application for Federal Assistance which itemizes total program costs, including salaries and operating expenses for each period of program operation, and a completed ACTION Form A-1036: Title I, Part C Program Narrative to ACTION, Office of Volunteer Liaison.

Dated in Washington, D.C. on April 7, 1983.

Thomas W. Pauken,

Director, ACTION.

[FR Doc. 83-9628 Filed 4-11-83; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Subcommittee for Beef and Dairy Cattle Enteric and Digestive Diseases, Mastitis, and Other Diseases and Parasites; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the United States Department of Agriculture announces the following meeting:

Name: Subcommittee for Beef and Dairy Cattle Enteric and Digestive Diseases, Mastitis and Other Diseases and Parasites of the Technical Advisory Committee for Science and Education Research Grants Program.

Date and time: May 17, 18, and 19, 1983, Tuesday—8:30 a.m. to 5:00 p.m.; Wednesday—8:30 a.m. to 5:00 p.m.; Thursday—8:30 a.m. to 5:00 p.m.

Place: Room 6030, South Agriculture Building, United States Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

Type of meeting: Closed.

Contact person: Earl J. Splitter, Principal Veterinarian, Cooperative State Research Service, United States Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447-5007.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the program on Beef and Dairy Cattle Enteric and Digestive Diseases, Mastitis and Other Diseases and Parasites.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92-463.

C. I. Harris,

Acting Administrator, Cooperative State Research Service.

April 6, 1983.

[FR Doc. 83-9635 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-03-M

Subcommittee for Beef and Dairy Cattle Respiratory Diseases; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the United States Department of Agriculture announces the following meeting:

Name: Subcommittee for Beef and Dairy Cattle Respiratory Diseases of the Technical Advisory Committee for Science and Education Research Grants Program.

Date and time: April 27, 28, and 29, 1983, Wednesday—8:30 a.m. to 5:00 p.m.; Thursday—8:30 a.m. to 5:00 p.m.; Friday—8:30 a.m. to 5:00 p.m.

Place: Room 6038, South Agriculture Building, United States Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

Type of meeting: Closed.

Contact person: Howard S. Teague, Principal Nonruminant Nutritionist, Cooperative State Research Service, United States Department Agriculture, Washington, D.C. 20250, Telephone: (202) 447-3847.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the program on Beef and Dairy Cattle Respiratory Diseases.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92-463.

C. I. Harris

Acting Administrator, Cooperative State Research Service.

April 6, 1983.

[FR Doc. 83-9636 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-03-M

Subcommittee for Beef and Dairy Cattle Reproductive Diseases; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the United States Department of Agriculture announces the following meeting:

Name: Subcommittee for Beef and Dairy Cattle Reproductive Diseases of the Technical Advisory Committee for Science and Education Research Grants Program.
Date and time: May 11, 12, and 13, 1983, Wednesday—8:30 a.m. to 5:00 p.m.; Thursday—8:30 a.m. to 5:00 p.m.; Friday—8:30 a.m. to 5:00 p.m.
Place: Room 6038, South Agriculture Building, United States Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250.
Type of meeting: Closed
Contact person: Howard S. Teague, Principal Nonruminant Nutritionist, Cooperative State Research Service, United States Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447–3847.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in the program on Beef and Dairy Cattle Reproductive Diseases.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

C. I. Harris,

Acting Administrator, Cooperative State Research Service.

April 5, 1983.

[FR Doc. 83-9637 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-03-M

Subcommittee for Poultry and Horse Diseases; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the United States Department of Agriculture announces the following meeting:

Name: Subcommittee for Poultry and Horse Diseases of the Technical Advisory Committee for Science and Education Research Grants Program.
Date and time: May 4, 5, and 6, 1983, Wednesday—8:30 a.m. to 5:00 p.m.; Thursday—8:30 a.m. to 5:00 p.m.; Friday—8:30 a.m. to 5:00 p.m.
Place: Room 6030, South Agriculture Building, United States Department of Agriculture, 14th and Independence Avenue S.W., Washington, D.C. 20250.
Type of meeting: Closed.
Contact person: Earl J. Splitter, Principal Veterinarian, Cooperative State Research Service, United States Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–5007.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in the program on Poultry and Horse Diseases.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

C. I. Harris,

Acting Administrator, Cooperative State Research Service.

April 6, 1983.

[FR Doc. 83-9634 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-03-M

Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee for Aquaculture; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the United States Department of Agriculture announces the following meeting:

Name: Subcommittee for Aquaculture of the Technical Advisory Committee for Science and Education Research Grants Program.
Date and time: May 9, 10, and 11, 1983—Monday—8:30 a.m. to 4:30 p.m.; Tuesday—8:30 a.m. to 4:30 p.m., Wednesday—8:30 a.m. to 4:30 p.m.
Place: United States Department of Agriculture, 14th and Independence Avenue, S.W., Room 6032-South Building, Washington, D.C. 20250.
Type of meeting: Closed.
Contact person: Donald J. Bray, Principal Poultry Scientist, Cooperative State Research Service, United States Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447–3661.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in the program on Aquaculture.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

C. I. Harris,

Acting Administrator, Cooperative State Research Service.

April 6, 1983.

[FR Doc. 83-9632 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-03-M

Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee for Swine and Sheep Disease; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, the United States Department of Agriculture announces the following meeting:

Name: Subcommittee for Swine and Sheep Diseases of the Technical Advisory Committee for Science and Education Research Grants Program.
Date and time: May 10, 11, and 12, 1983, Tuesday—8:30 a.m. to 5:00 p.m.; Wednesday—8:30 a.m. to 5:00 p.m.; Thursday—8:30 a.m. to 5:00 p.m.
Place: Room 6030, South Agriculture Building, United States Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250.
Type of meeting: Closed.
Contact person: Earl J. Splitter, Principal Veterinarian, Cooperative State Research Service, United States Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–5007.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in the program on Swine and Sheep Diseases.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Public Law 92–463.

C. I. Harris,

Acting Administrator, Cooperative State Research Service.

April 6, 1983.

[FR Doc. 83-9633 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-03-M

Forest Service

Mount St. Helens Scientific Advisory Board; Gifford Pinchot National Forest, Vancouver, Washington; Meeting

The Mount St. Helens Scientific Advisory Committee will meet at 9:00 a.m., May 2, 1983, at the Gifford Pinchot National Forest, Forest Supervisor's Office, 500 West 12th Street, Vancouver, Washington 98660, to develop advice and recommendations on:

1. The measures needed to protect and manage the natural and scientific values of the Mount St. Helens Monument.
2. The administration of the Monument with respect to policies, programs, and activities which are specifically intended to retain the natural ecologic and geologic processes and integrity of the Monument.
3. Presentation of the Comprehensive Management Plan for the future.
4. Fish passage on the Green River.
5. Fish stocking in Monument lakes.
6. Appropriate water levels for Spirit Lake.
7. Research activities in the Monument area.
8. Open discussion of topics of interest to the advisory board.

The meeting will be open to the public. Persons who wish to attend should notify Robert D. Tokarczyk, Gifford Pinchot National Forest, Forest Supervisor's Office, 500 West 12th Street, Vancouver, WA 98660, 206–696–7570. Written statements may be filed with the committee before or after the meeting.

Dated: April 6, 1983.

Robert D. Tokarczyk,

Forest Supervisor.

[FR Doc. 83-9525 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

West Branch of the Westfield River Watershed, Massachusetts; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the West Branch of the Westfield River Watershed project, Hampden, Hampshire and Berkshire counties, Massachusetts, effective on March 11, 1983.

FOR FURTHER INFORMATION CONTACT: C. E. Mills, Acting State Conservationist, Soil Conservation Service, 451 West Street, Amherst, Massachusetts 01002, 413–256–0441.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: April 14, 1983.

C. E. Mills,

Acting State Conservationist.

[FR Doc. 83-9540 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-16-M

Coos County Farm Agriculture Related Pollutant Control RC&D Measure, New Hampshire

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Coos County Farm Agriculture Related Pollutant Control RC&D Measure, Coos County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. Richard L. Porter, State Conservationist, Soil Conservation Service, Federal Building, Box G, Durham New Hampshire, 03824, telephone 603–868–7581.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Richard L. Porter, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for agriculture related pollutant control. The planned works of improvement include paving a feed lot area to facilitate frequent cleaning of accumulated animal wastes; and, an agriculture waste storage facility to be constructed for manure storage.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Richard L. Porter.

No administrative action on implementation of the proposal will be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: March 24, 1983.

Richard L. Porter,

State Conservationist.

[FR Doc. 83-9544 Filed 4-11-83; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 83–4–21]

Fitness Determination of Michigan Airways, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination—order 83–4–2, order to show cause.

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

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than April 26, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

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

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

SUPPLEMENTARY INFORMATION: The complete text of Order 83–4–21 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 for Order 83–4–21 to that address.

By the Civil Aeronautics Board: April 7, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-9606 Filed 4-11-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83–4–29, Docket 41246]

Pan American World Airways; Show Cause and Grant of Exemption

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause and grant of exemption: Order 83–4–29, docket 41246.

SUMMARY: The Board proposes to grant an amendment to the certificate of Pan American World Airways to permit it to operate scheduled air transportation between the United States and Milan, Italy, and Switzerland. The Board is also granting a *pendente lite* exemption to operate New York NY-Milan, Italy, and New York, NY-Zurich, Switzerland.

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 May 3, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 41246, 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, NW., Washington, D.C. 20428, (202) 673–5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION: Contact William J. Wagner, (202) 673–5514, Bureau of International Aviation, Civil Aeonautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 7, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-9607 Filed 4-11-83; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Arkansas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 8:00a and will end at 6:00p, on May 4, 1983, in Room 2A thru 2E, at the University of Arkansas, Little Rock University Conference Center, Five Statehouse Plaza, Little Rock, Arkansas, 72201. The purpose of this meeting is to conduct a conference and workshop on block grants.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marcia McIvor, 1229 Lakeridge, Fayetteville, Arkansas, 72701, (501) 442–0600 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204, (512) 229–557.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C, April 7, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-9612 Filed 4-11-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Full Council Meeting, President's Export Council; Amendment

Agency: International Trade Administration.

Purpose: This notice amends a previous notice (published Tuesday, March 29, 1983, FR 13070) of an open meeting of the President's Export Council from 2:00–4:00 p.m. on April 15, 1983. The following items have been changed:

Place: The meeting will be held at the Hyatt Regency Hotel, Yellowstone Room, 400 New Jersey Ave., NW., Washington, D.C.

Agenda: In addition to items previously published, the agenda will include a vote on resolutions regarding insurance industry trade issues and discussion of recommendations on the renewal of the Export Administration Act, foreign-policy export controls and other export control issues.

Other information contained in the previous notice is still accurate.

Dated: April 7, 1983.

Henry P. Misisco,

Acting Director, Office of Planning & Coordination.

[FR Doc. 83-9605 Filed 4-11-83; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Meeting of Chronic Hazard Advisory Panel on Asbestos

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: A Chronic Hazard Advisory Panel, established by the Commission to provide advice about the potential chronic hazards presented by asbestos in consumer products, has scheduled a meeting which is open to the public.

DATES: The meeting will begin at 9:00 am on April 15, 1983, and will continue until 5:00 pm. If the Panel does not complete its work on that day, it will meet again on April 16, during the same hours.

ADDRESS: The meeting will be at 5401 Westbard Avenue, Bethesda, Maryland, in room 742 during the morning of April 15, and in room 456 at all other times.

FOR FURTHER INFORMATION CONTACT: Colin B. Church, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492–6957.

SUPPLEMENTARY INFORMATION: The Chronic Hazard Advisory Panel on Asbestos is a seven-member group which has been established to advise the Commission concerning the potential chronic hazard of cancer associated with the use of consumer products containing asbestos. The Panel, convened in January, 1983, is addressing the concern that the presence of asbestos in consumer products under certain conditions may present a risk of cancer and respiratory disease to consumers.

At its meeting on April 15 the Panel will be reviewing working papers proposed by Panel members which might be incorporated into a "Report to the Commission" which is expected around the end of May, 1983.

Since space is limited, those planning to attend are encouraged to notify Mr. Colin B. Church, Directorate for Health Sciences, Consumer Product Safety Commission, Washigton, D.C. 20207, telephone (301) 492-6957 in advance of the meeting, in case a larger meeting room is needed. It is anticipated that the public will have the opportunity to provide written and oral comments regarding the work of the Panel at a later time which will be announced in the **Federal Register.**

Dated: April 8, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-9799 Filed 4-11-83; 9:49 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Amendment to the Notice for a System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Amendment to the Notice for a System of Records.

SUMMARY: The Defense Logistics Agency proposes to amend its notice for a system of records subject to the Privacy Act of 1974. The specific changes to the system notice are set forth below followed by the system notice as amended.

DATE: This action will be effective May 12, 1983.

ADDRESS: Send comments to: Director, Defense Manpower Data Center, 300 North Washington Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Mr. Preston B. Speed, Chief, Administrative Management Branch, HQ Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Telephone 202/274-6234.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency system of records subject to the Privacy Act of 1974 as amended, Title 5, U.S.C. 552a, were published at 47 FR 2544, January 18, 1982.

These changes do not require an altered system notice in accordance with 5 U.S.C. 552a(o)).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

April 6, 1983.

Amendments

S322.10 DLA-LZ

System Name:

Defense Manpower Data Center Data Base

Changes:

System Location:

Delete:

"Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, DC 20330."

"U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, DC 20310."

"National Military Command Systems Support Center, Room BE-685, The Pentagon, Washington, D.C. 20331."

"Selected historic files are maintained at Air Force Data Services Center, Room 1D-167, The Pentagon, Washington, D.C. pursuant to court order in IBM antitrust case. These files will be withdrawn from current location when legally permissible."

Categories of Individuals Covered by the System:

Add:

"Individuals receiving disability compensation from the Veterans Administration; civilian employees of the Federal Government; dependents of active duty military retirees, selective service registrants."

Categories of Records in the System:

Add:

"Champus claim records, military compensation data, selective service registration data, Veterans Administration disability payment records."

Authority for Maintenance of the System:

Add:

"Public Law 97-252."

Routine Use of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

Add:

"Records of military retirees may be disclosed to agencies of the Federal government or quasi-Federal agencies for purposes of identifying individuals employed in a civilian capacity whose civilian pay must be offset as a result of increases in military retiree pay pursuant to the Budget Reconciliation Act of 1982, Pub. L. 97-252."

Safeguards:

Delete:

"The Air Force Data Services Center, the U.S. Army Management Systems Support Agency, and the National Command Systems Support Center are all TOP SECRET facilities."

System Manager(s) and Address:

Delete:

Delete the word "Chief" and substitute therefor the word "Director."

Notification Procedure:

Delete:

Delete "Deputy Chief; Defense Manpower Data Center, 550 Camino El Estro, Monterey, CA, 93940" and insert "the System Manager."

Records Access Procedures:

Delete:

Delete "Deputy Chief, Defense Manpower Data Center, 550, Camino El Estro, Monterey, CA, 93940" and insert "the System Manager."

Record Source Categories:

Delete:

In the last line delete the phrase "Civil Service Commission: and substitute therefor the phrase "office of Personnel Management."

Add:

"Federal and quasi-Federal agencies, Selective Service System."

S322.10 DLA-LZ

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Back-up files maintained at two offices of the Defense Manpower Data Center, 7th Floor, 300 N. Washington St., Alexandria, VA 22314 and 2nd Floor, 550 Camino El Estero, Monterey, CA 93940.

Decentralized segments—military personnel centers of the services; selected civilian contractors with research contracts in manpower area; other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and enlisted personnel who served on active duty from July 1, 1968 and later, or who have been a member of a reserve component since July 1975; or are retired military; participants in Project 100,000 and Project Transition and the evaluation control groups for these programs; all individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later; DoD civilian employees or civilian employees separated since January 1, 1971; all veterans who have utilized Vietnam-era or GI Bill education and training entitlements, who visited a State Employment Service office since July 1, 1971, or who participated in a Department of Labor special training program since July 1, 1971; all individuals who ever participated in an education program sponsored by the U.S. Armed Forces Institute, all individuals who participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969 individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services, National Longitudinal Survey, individuals responding to Recruiting Advertisements since January 1978; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Veterans Administration (VA); surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors; individuals receiving disability compensation from the VA; civilian employees of the Federal government; dependents of active duty military personnel and military retirees selective service registrants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Service Number, Selective Number, Social Security Account Number, demographic information such as hometown, age, sex, race and educational level; civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, post-service education, training, and employment information for veterans; participation in various in-service education and training programs; military hospitalization records, CHAMPUS claim records, military compensation data, selective service registration data, VA disability payment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136 and Pub. L. 97-252, "Budget Reconciliation Act of 1982".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of the system of records as to provide a longitudinal statistical analysis capability for assessing military manpower trends and evaluation programs impacting on military personnel, potential enlistees, and veterans and to provide a single central facility within the Department of Defense for the identification of current and former DoD civilian and military personnel and their conditions of Service.

Defense Manpower Data Center—used to analyze accession patterns and trends, promotion and occupation patterns and trends, loss patterns and trends, qualification rates, effectiveness of recruiting programs, participation in education and training programs, force characteristics, post-service experiences of veterans, evaluation of military special pays and bonuses; evaluation of special programs affecting military personnel; to select sample population for surveys, to provide statistical data to OMB, GAO, the Military Services, DoD civilian contractors, educational institutions and other Federal agencies.

Personnel Research and Personnel Management activities of the Military Services uses are same as those specified above.

Veterans Administration, Management Sciences Staff, Reports and Statistics Service, Office of the Comptroller—used to select sample for surveys asking veterans about the use of veterans benefits and satisfaction with VA services, and to validate eligibility for VA benefits.

Office of Research and Statistics, Social Security Administration—used for statistical analyses of impact of military service and use of GI Bill benfits on long term earning.

DoD Civilian Contractors—used by contractors performing research on manpower problems for statistical analyses.

Aggregate data and/or individual records in the record system may be transferred to other Federal agencies having legitimate use for such information and applying appropriate safeguards to protect data so provided.

Records may be disclosed to the Civil Service Commission concerning pay, benefits, retirement deductions; and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Any record contained in the system of records may be transferred to any other component of the Department of Defense having the need-to-know in the performance of official business.

Name and address information of former military personnel obtained from the Veterans Administration or the Military Department may be released to a number of DoD Components for use in attempting to recruit and reenlist prior service personnel through direct contact methods. These components are as follows: U.S. Army Recruiting Command; U.S. Armed Forces Command; Navy Recruiting Command; Chief of Naval Personnel; Chief of Naval Reserve; U.S. Air Force Recruiting Service; U.S. Air Force Tactical Air Command; Headquarters Air Force Reserve; National Guard Bureau, Headquarters, U.S. Marine Corps; District Directors, U.S. Marine Corps; Commanding General 4th Marine Division; Commanding General, 4th Marine Air Wing; Commandant, U.S. Coast Guard.

Information on the name, rank, social security accounting number, duty station, birth date, retirement date, and retirement annuity may be disclosed to the Department of Health and Human Services or the Department of Education for the following purposes:

To the Department of Education, DOE, for the purpose of identifying individuals who appear to be in default on their guaranteed student loans so as to permit the DOE to take action, where appropriate, to accelerate recoveries of defaulted loans.

To the Bureau of Supplemental Security Income, Social Security Administration, DHHS, in order to verify and adjust as necessary payments made to active and retired military members under the Supplemental Security Income Program.

To the Office of the Inspector General, DHHS, for the purpose of identifying and Investigating DoD employees (military and civilian) who may be improperly receiving funds under the Aid for Families of Dependent Children Program.

To the Office of Child Support Enforcement Department of Health and Human Services, pursuant to Pub. L. 93-647, for the purpose of assisting state child support enforcement offices in locating absent parents in order to establish and/or enforce child support obligations.

To the Director of the Selective Service System for use in wartime or emergency mobilization and for mobilization planning.

To the Veterans Administration for analysis of the costs to the individual of military service connected disabilities.

To disclose information contained in the Defense Manpower Data Center Data Base including the name, social security number, date of birth, sex, annualized salary rate, service computation date, retirement status, rank, military service, unit identification code, duty address or (for military retirees) mailing address of all active, reserve, or retired military personnel to agencies participating in the "Federal Employee Receiving Government Assistance Matching Project conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit program administered by agencies within the Federal government and to collect debts and overpayment owed to the Federal government."

Records of military retirees may be disclosed to agencies of the Federal government or quasi-Federal agencies for purposes of identifying individuals employed in a civilian capacity whose civilian pay must be offset as a result of increases in military retiree pay pursuant to the Budget Reconciliation Act of 1982, Pub. L. 97-252.

* * * * *

SAFEGUARDS:

Primary location—at W.R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At back-up locations in Alexandria, VA and Monterey, CA tapes are stored in rooms protected with cypher locks, buildings are locked after hours, and only properly cleared and authorized personnel have access.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, CA 93940.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

Written requests for information should contain the full name, Social Security Account Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as drivers license, or military or other ID card.

RECORD SOURCE CATEGORIES:

The Military Services, the Veterans Administration, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and quasi-Federal agencies, Selective Service System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-9531 Filed 4-11-83; 8:45 am]

BILLING CODE 3620-01-M

Department of the Navy

Privacy Act of 1974; Amendment of System of Records

AGENCY: Department of the Navy, Defense.

ACTION: Notice of an amendment of a system of records.

SUMMARY: The Department of the Navy proposes to amend one system of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice on May 12, 1983, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350, Telephone: (202) 694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the **Federal Register** as follows:

FR Doc. 81-674 (47 FR 2574) January 18, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982
FR Doc. 82-15596 (47 FR 25041) June 9, 1982
FR Doc. 82-23533 (47 FR 37948) August 27, 1982
FR Doc. 82-27420 (47 FR 44134) October 6, 1982
FR Doc. 82-27692 (47 FR 44381) October 7, 1982
FR Doc. 82-28879 (47 FR 46879) October 21, 1982
FR Doc. 82-29834 (47 FR 49067) October 29, 1982
FR Doc. 82-30255 (47 FR 50069) November 4, 1982
FR Doc. 82-32787 (47 FR 54139) December 1, 1982
FR Doc. 83-805 (48 FR 1338) January 12, 1983
FR Doc. 83-1207 (48 FR 2584) January 20, 1983
FR Doc. 83-3098 (48 FR 5291) February 4, 1983
FR Doc. 83-5943 (48 FR 9904) March 9, 1983

This correction does not require an altered system report in accordance with 35 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

April 7, 1983.

NO3461-2

System name:

POW/MIA Captivity Studies (47 FR 2665) January 18, 1982

Changes:

System location:

Delete the entire entry and substitute with the following: "Naval Aerospace Medical Institute, Special Studies Department (122), Naval Air Station, Pensacola, Florida 32508".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the first line of the second paragraph delete the phrase: "Center for Prisoner of War Studies."

Safeguards:

Delete the entire entry and substitute with the following: "All files in this system are protected by limited, controlled access, locked doors and class 6 security cabinets. Only professional and /or research staff with appropriate security clearances are given access to files".

System manager(s) and address:

Delete the entire entry and substitute with the following: "Head, RPOW Data Analysis Division, Naval Aerospace Medical Institute, Naval Air Station, Pensacola, Florida 32508."

Notification procedures:

Delete the existing address in lines 2-4 and substitute with the following: "Commanding Officer, Naval Aerospace Medical Institute, ATTN: Code 122, Naval Air Station, Pensacola, Florida 32508 * * *"

Record source categories:

In line 4, add the word: "* * * hostages, * * *" after the phrase: "* * * with returned POW's, * * *"

NO3461-2

SYSTEM NAME:

POW/MIA Captivity Studies

SYSTEM LOCATION:

Naval Aerospace Medical Institute, Special Studies Department, Code 122, Naval Air Station, Pensacola, Florida 32508.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are converted to group statistics and are used for research into the effects of the captivity experience on the man and his family and for recommending changes in training and improved health care delivery services, as well as for professional publications. Professional Staff, Research Staff, Naval Aerospace Medical Institute, Pensacola, Florida; Research Staff, Brooke Army Medical Center, San Antonio, Texas.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

SAFEGUARDS:

All files in this system are protected by limited, controlled access, locked doors and class 6 security cabinets. Only professional and/or research staff with appropriate security clearances are given access to files.

SYSTEM MANAGER(S) AND ADDRESS:

Head, RPOW Data Anaylsis Division, Naval Aerospace Medical Institute, Naval Air Station, Pensacola, Florida 32508.

NOTIFICATION PROCEDURE:

Write: Commanding Officer, Naval Aerospace Medical Institute, ATTN: Code 122, Naval Air Station, Pensacola, Florida 32508, providing full name, military or civilian status, POW status, security clearance, and service affiliation.

* * * * *

RECORD SOURCE CATEGORIES:

All information contained in files was obtained through personal interviews with returned POW's, hostages, families of POW/MIA/KIA/hostages/civilian POW's, through intelligence debriefings at time of repatriation, newspapers and periodicals, and from materials supplied by the Department of the Army (Office of the Surgeon General and Army Intelligence); Department of the Navy (Naval Medical Command and Naval Intelligence); and Marine Corps Headquarters.

* * * * *

[FR Doc. 83-9651 Filed 4-11-83; 8:45 am]
BILLING CODE 3810-01-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, April 20, 1983, beginning at 2:00 p.m. The hearing will be a part of the Commission's regular April business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation beginning at 11:00 a.m.

The hearing, meeting and conference will be held in the Goddard Conference Room at the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

The subjects of the hearing will be as follows:

I. Current Expense and Capital Budgets

A proposed current expense budget for the fiscal year beginning July 1, 1983, in the aggregate amount of $1,933,700, and a capital budget for the same period in the amount of $27,000. Copies of the budget are available from the Commission on request. This hearing continues that of February 23, 1983.

II. Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact

A. Holdover Project

1. *Old Craigsville Television Association (D-82-46).* An overhead cable crossing to provide improved television reception for area homes on the East Bank of the Delaware River, near Handsome Eddy, New York. The proposed crossing will extend for a distance of approximately 900 feet from Lumberland Township, Sullivan County, New York, across the Delaware River to Shohola Township, Pike County, Pennsylvania. The crossing will be located approximately three miles downstream from the Town of Barryville, New York, and will be located in the Upper Delaware Wild and Scenic River area. This hearing continues that of February 23, 1983.

B. New Projects

1. *Tamiment Resort & Country Club (D-75-93 CP Revised).* A revised sewage treatment project to serve the Tamiment Resort & Country Club in Lehman Township, Pike County, Pennsylvania. An expanded treatment facility approved on 7/23/75 was never completed. The revised treatment plant is designed to remove 93 percent BOD and 97 percent suspended solids from a sewage flow of up to 250,000 gallons per day (gpd). Treated effluent will discharge to an unnamed tributary to Little Bushkill Creek in Lehman Township, Pike County, Pennsylvania.

2. *Pennsylvania Fish Commission (D-80-32 CP).* A well water supply project at the Fish Commission's Pleasant Mount Fish Cultural Station in Pleasant Mount Township, Wayne County, Pennsylvania. Well Nos. 2 and 3 will provide a combined yield of about 403,000 gpd for augmented supply during spring months, and as backup for an existing well.

3. *City of Lewes Board of Public Works (D-82-29 CP).* A ground water withdrawal project to replace water from a well that has failed. The new well, with other remaining wells, will supply an average of two million gallons per day (mgd) to the Board of Public Works distribution systems in the City of Lewes, Sussex County, Delaware.

4. *City of Wilmington, Department of Public Works (D-82-53 CP).* A proposed new interconnection between the City of Wilmington and the Artesian Water Company water supply systems in New Castle County, Delaware. The interconnection will be located at South Heald Street, about 400 feet south of the Wilmington City boundary, and will permit the City to supply Artesian with up to 1.0 million gallons per day (mgd) of potable water on a sustained basis. The additional water is required to help meet peak demands in the Water Company's service area and to reduce operating times of the Company's wells. The City of Wilmington obtains water supply from the Brandywine Creek and maintains Hoopes Reservoir on Red Clay Creek as a standby source.

5. *Stanley G. Flagg & Co., Inc. (D-83-1).* An industrial waste treatment facility at the applicant's galvanizing and foundry plant in West Pottsgrove Township, Montgomery County, Pennsylvania. The facility will be designed to reduce suspended solids and metals from a waste water flow of approximately 0.281 mgd. Treated effluent will discharge to the Schuylkill River in West Pottsgrove Township, Montgomery County, Pennsylvania.

6. *Borough of Orwigsburg (D–83–10 CP).* A ground water withdrawal to supplement existing supplies from Well Nos. 1 and 2. Ground water from proposed Well No. 3 and Well No. 2 will replace withdrawals from a surface water impoundment which is being phased out of service due to the safety condition of the dam. Well Nos. 1, 2 and 3 are expected to meet the projected demand for several years. The 1990 projected demand is 0.385 mgd. The project is located in the Borough of Orwigsburg, in Schuylkill County, Pennsylvania.

7. *Borough of Quakertown Sewage Treatment Plant (D–83–17 CP).* Interim modifications of an existing sewage treatment plant serving the Quakertown and Richland Boroughs and portions of Richland Township in Bucks County, Pennslyvania. Funding of a plant expansion, approved October 1973, was delayed and the project was never built. The proposed modifications will increase the hydraulic capacity of the treatment plant to 3.0 mgd and reduce the overflow of sewage from surcharged manholes. Discharged waste water will not exceed an average of 30 mg/1 of BOD5 and suspended solids.

Dated: April 5, 1983.

Susan M. Weisman,

Secretary.

[FR Doc. 83-9548 Filed 4-11-83; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: May 2–4, 1983, 9:00 a.m. to 5:00 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes: 1982 Annual Report, Committee on Illiteracy Report, Review of Options on Secretary's Campaign for Adult Literacy, Election of Council Officers.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., Suite 323, Washington, D.C., 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on April 7, 1983.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 83-9611 Filed 4-11-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER83-434-000]

Alabama Power Company; Filing

April 6, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, Alabama Power Company (Alabama) tendered for filing eighteenth Revised Sheet No. 34 to its FERC Electric Tariff, Original Volume No. 1. The purpose of this filing is to give notice that effective May 18, 1983, the load normally served from The City of Dothan's College Street #1, College Street No. 2, Whiddon Street #2 delivery points will be served from the New College Street delivery point. The delivery point will be served at the Company applicable revision to Rate Schedule MUN–1 incorporated in FERC Electric Tariff, Original Volume No. 1 of Alabama.

Copies of the filing were served upon The City of Dothan.

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 25, 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. 83-9480 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER79-126-007]

Arizona Public Service Company; Order Setting Effective Date of Rates

Issued April 6, 1983.

Arizona Public Service Company (APS) has appealed an order issued by the Director of the Office of Electric Power Regulation. That order established February 7, 1983, the date the order was issued, as the date APS' increased rates to its wholesale customers become effective pursuant to section 206(a) of the Federal Power Act.

We disagree with the Director's order. The effective date of the rate increase authorized by Opinion No. 137 is March 2, 1982, the issuance date of that opinion. See, *Public Service Company of New Mexico,* Opinion No. 133–A, 18 F.E.R.C. ¶61,036 (January 29, 1982), where we ruled that the effective date of rates to section 206 customers was the date of the Commission's decision, not the date the compliance filing was accepted. Opinion No. 137–A, issued September 30, 1982, modified APS' cost of service in two respects.[1] However,

[1] We directed APS to change the methodology it used in calculating its federal income tax liability, including using a 46 percent tax rate rather than 48 percent. We also modified the method for calculating interest expense for income tax purposes.

the rate change occasioned by the modifications is *de minimis*, and we do not believe that minor technical adjustments to the cost of service, which we have found in all other respects to be just and reasonable, should suspend the effectiveness of Opinion No. 137.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9481 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-230-000]

Arkansas Louisiana Gas Company, a division of Arkla, Inc.; Request Under Blanket Authorization

April 5, 1983.

Take notice that on March 14, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-230-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Arkla proposes to construct and operate a tap, town border station, and related appurtenant facilities on its line "AD" under the authorization issued in Docket Nos. CP82-340-000 and CP82-340-001 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.

Arkla states that the average daily volume to be delivered by the proposed facilities is estimated initially to be aproximately 1,621 Mcf which Arkla further states is *de minimis* when compared with Arkla's 1982 annual and peak day deliveries of 394,607,813 Mcf and 1,827,927 Mcf, respectively. Arkla further states that said volumes would be billed at the retail rates applicable under Arkla's effective rates as filed with the Oklahoma Corporation Commission. It is asserted that such facilities would be used to sell and deliver gas through the Startford, Oklahoma, distribution system. It is estimated that the cost of the construction of the proposed facilities is $28,545.

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 Procedure Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 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. 83-9502 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-222-000]

Canyon Creek Compression Company; Application

April 5, 1983.

Take notice that on March 9, 1983, Canyon Creek Compression Company (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP83-222-000 an application pursuant to Section 7(c) of the Natural Gas Act for petition for a certificate of public convenience and necessity authorizing the transportation of up to 20,000 Mcf of natural gas per day on behalf of Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), and approval of revised contract demands and revised demand and overrun rates, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Tennessee has reserves located in the Whitney Canyon Field, Uinta County, Wyoming, which it desires Applicant to transport and compress on its behalf. Applicant states that it has agreed to transport, compress and deliver up to 20,000 Mcf of natural gas per day to Overthrust Pipeline Company for Tennessee pursuant to a service agreement dated January 24, 1983.

Applicant states that it would charge Tennessee a demand rate per month for each Mcf of contract demand and a commodity rate per month for each Mcf compressed. It is asserted that the addition of Tennessee as a transportation customer would alter Applicant's existing contract demand and, therefore, reduce Applicant's existing demand rate (Rate Schedule C) and its existing overrun rate (Rate Schedule I). It is explained that the amount of reduction in the demand rate would be 40.0 cents per Mcf resulting in a new demand rate of $3.38 per Mcf. The overrun rate would be reduced by 1.3 cents per Mcf to obtain a new overrun rate of 11.1 cents per Mcf, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 26, 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 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 Commision'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. 83-9503 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-426-000]

Central Illinois Light Company; Filing

April 6, 1983.

The filing Company submits the following:

Take notice that Central Illinois Light Company (CILCO), on March 30, 1983, tendered for filing proposed changes in its rate schedules for service to the Villages of Chatham and Riverton, Illinois and Corn Belt Electric Cooperative. CILCO states that the rate structures proposed for rate schedules MW-3 and REA-3 are the same as those currently in effect except for the price levels which reflect the increase. The proposed changes would increase revenues from jurisdictional sales and

service by $328,817 based on the 12-month period ending December 31, 1981.

CILCO states that the affected customers have agreed to the proposed increases. By agreement of the parties, CILCO requests that the proposed rate for service to the Villages of Chatham and Riverton become effective on August 1, 1983 and for service to Corn Belt Electric Cooperative on August 30, 1983. CILCO, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon CILCO's affected jurisdictional customers and the Illinois Commerce 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 22, 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. 83-9482 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-4579-019, et al.]

Cities Service Oil & Gas Corporation; Application for Certificate of Public Convenience and necessity and for Substitution in Related Proceedings

April 5, 1983.

Take notice that on March 1, 1983, Cities Service Oil & Gas Corporation (Applicant) of P.O. Box 300, Tulsa, Oklahoma 74102 filed an application for Certificate of Public Convenience and Necessity for certain sales previously authorized by the Commission under Certificates of Public Convenience and Necessity heretofore issued to Cities Service Company and for substitution of Cities Service Oil & Gas Corporation for Cities Service Company in any other related proceedings. Cities Service Oil & Gas Corporation is filing contemporaneously herewith a Certificate of Adoption and Request for Redesignation of Cities Service Company Rate Schedules listed as in the attached Appendix.

Effective February 1, 1983, Cities Service Company assigned certain of its oil and gas leases to its wholly-owned subsidiary, Cities Service Oil and Gas Corporation.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not 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 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.

APPENDIX

R.S. No. and purchaser	Certificate docket
1 Trunkline Gas Company[1]	G-4579.
2 Texas Eastern Transmission Corp.	G-4579.
18 El Paso Natural Gas Company	G-4579.
19 El Paso Natural Gas Company[1]	G-4579.
20 El Paso Natural Gas Company	G-4579.
21 El Paso Natural Gas Company	G-4579.
22 El Paso Natural Gas Company	G-4579.
23 El Paso Natural Gas Company	G-4579.
24 El Paso Natural Gas Company	G-4579.
25 El Paso Natural Gas Company	G-4579.
26 El Paso Natural Gas Company	G-4579.
27 El Paso Natural Gas Company	G-4579.
28 El Paso Natural Gas Company	G-4579.
31 El Paso Natural Gas Company	G-4579.
32 Northern Natural Gas Company	G-4579.
38 El Paso Natural Gas Company	G-4579.
39 El Paso Natural Gas Company	G-4579.
40 El Paso Natural Gas Company	G-4579.

APPENDIX—Continued

R.S. No. and purchaser	Certificate docket
41 El Paso Natural Gas Company	G-4579.
42 Northwest Central Pipeline Corp.	G-4579.
43 El Paso Natural Gas Company	G-4579.
49 United Gas Pipe Line Company	G-4579.
50 Texas Gas Transmission Corp.	G-4579.
51 El Paso Natural Gas Company	G-4579.
53 Northern Natural Gas Company	G-4579.
57 El Paso Natural Gas Company	G-4579.
58 El Paso Natural Gas Company	G-4579.
59 El Paso Natural Gas Company	G-4579.
60 El Paso Natural Gas Company	G-4579.
61 El Paso Natural Gas Company	G-4579.
62 El Paso Natural Gas Company	G-4579.
64 El Paso Natural Gas Company	G-4579.
65 El Paso Natural Gas Company	G-4579.
66 El Paso Natural Gas Company	G-4579.
69 Lone Star Gas Company	G-4579.
86 Northwest Central Pipeline Corp.	G-4579.
90 Kansas-Nebraska Natural Gas Co., Inc.	G-4579.
91 Colorado Interstate Gas Company.	G-4579.
94 Panhandle Eastern Pipe Line Co.	G-10250.
96 Northern Natural Gas Company	G-10611.
97 Panhandle Eastern Pipe Line Co.[1]	G-11755.
98 Northern Natural Gas Company	G-11838 and G-16997.
99 Colorado Interstate Gas Company[1]	G-12149.
100 Colorado Interstate Gas Company[1]	G-12150.
104 Panhandle Eastern Pipe Line Co.	G-13658.
105 El Paso Natural Gas Company	G-13450.
106 United Gas Pipe Line Company.	G-14232.
107 Phillips Petroleum Company	G-14532.
108 Kansas-Nebraska Natural Gas Co., Inc.	G-4579.
111 Phillips Petroleum Company	G-14533, G-14525, G-14526, G-14530, G-14524, G-14522, and G-14523.
120 Phillips Petroleum Company	G-14529.
121 Kansas-Nebraska Natural Gas Co., Inc.	G-4579.
123 Panhandle Eastern Pipe Line Co.[1]	G-16191.
124 West Texas Gathering Company.	G-14437.
125 Colorado Interstate Gas Company.	G-4579.
126 Colorado Interstate Gas Company.	G-4579.
127 Northern Natural Gas Company.	G-17451.
128 Texas Eastern Transmission Corp.	G-18014.
129 Natural Gas Pipeline Co. of America.	G-18352
130 El Paso Natural Gas Company	G-18456.
133 Colorado Interstate Gas Company.	G-19549.
134 Trunkline Gas Company	G-19559.
135 El Paso Natural Gas Company	G-4579.
137 Transwestern Pipeline Company.	G-18235.
138 Panhandle Eastern Pipe Line Co.	CI60-418.
139 Panhandle Eastern Pipe Line Co.[1]	G-4579.
140 Northern Natural Gas Company[1]	CI60-830.
142 Transwestern Pipeline Company.	G-18236.
143 Anadarko Production Company	CI61-1055.
146 Colorado Interstate Gas Company.	CI61-1123.
147 Transwestern Pipeline Company.	CI61-1100.
148 Panhandle Eastern Pipe Line Co.	CI61-1446.
149 Northwest Central Pipeline Corp.	CI61-1490.
150 Oklahoma Natural Gas Gathering Corp and Pioneer Gas Products Company.	CI61-1664.
152 Natural Gas Pipeline Co. of America.	CI62-72.

APPENDIX—Continued

R.S. No. and purchaser	Certificate docket
153 Natural Gas Pipeline Co. of America.	CI62-508.
154 Panhandle Eastern Pipe Line Company.	G-4579.
157 Northern Natural Gas Company	CI62-1240.
158 Colorado Interstate Gas Company.	CI63-76.
160 Northern Natural Gas Company	CI63-316.
161 Northwest Central Pipeline Corp.	CI63-365.
162 Michigan Wisconsin Pipe Line Co.	CI63-647.
163 Natural Gas Pipeline Co. of America.	CI63-709.
164 Natural Gas Pipeline Co. of America.	CI63-710.
165 Colorado Interstate Gas Company.	CI63-1307.
166 Northern Natural Gas Company [1].	G-4579.
167 Northern Natural Gas Company [1].	G-4579.
168 Northern Natural Gas Company [1].	G-4579.
169 Northern Natural Gas Company [1].	G-4579.
170 Northern Natural Gas Company [1].	G-4579.
171 Northern Natural Gas Company [1].	G-4579.
172 Arkansas Louisiana Gas Company.	CI64-136.
173 Valero Interstate Transmission Co.	CI64-211.
174 Northern Natural Gas Company.	CI64-482.
175 Colorado Interstate Gas Company.	CI64-664.
176 Columbia Gas Transmission Corp.	G-2721.
177 El Paso Natural Gas Company	G-4579.
180 Tennessee Gas Pipeline Company.	G-11046.
182 Michigan Wisconsin Pipe Line Co. [1].	G-13228.
185 Southern Natural Gas Company.	CI60-20.
186 Tennessee Gas Pipeline Company.	G-19707.
187 Tennessee Gas Pipeline Company.	CI62-135.
188 Transcontinental Gas Pipe Line Corp.	G-14355.
190 Northern Natural Gas Company.	CI64-752.
191 Northern Natural Gas Company.	CI64-773.
193 Tennessee Gas Pipeline Company.	CI64-1110.
194 Panhandle Eastern Pipe Line Co.	CI65-43.
197 Panhandle Eastern Pipe Line Co.	CI65-837.
198 Panhandle Eastern Pipe Line Co.	CI65-1204.
199 El Paso Natural Gas Company [1].	CI64-1451.
200 Northwest Central Pipeline Corp.	G-9792.
201 Northern Natural Gas Company.	CI61-385.
202 Northern Natural Gas Company.	CI64-672.
203 El Paso Natural Gas Company	G-3566.
205 El Paso Natural Gas Company	G-3567.
206 Gas Gathering Corporation [1]	CI66-350.
208 Northern Natural Gas Company [1].	CI66-737.
210 El Paso Natural Gas Company	CI66-636.
211 Panhandle Eastern Pipe Line Co. [1].	CI66-1154.
212 Northern Natural Gas Company.	CI66-1329.
213 Transwestern Pipeline Company.	CI61-1332.
214 Natural Gas Pipeline Co. of America.	CI65-561.
215 United Gas Pipe Line Company [1].	CI67-522.
216 Kansas-Nebraska Natural Gas Co., Inc.	G-18297.
217 Northern Natural Gas Company.	CI67-1566.
218 Transwestern Pipeline Company.	CI67-930.
219 El Paso Natural Gas Company	CI67-865.
220 Texas Eastern Transmission Corp.	CI68-311.
221 Panhandle Eastern Pipe Line Co.	CI66-786.
222 Panhandle Eastern Pipe Line Co.	CI68-910.
223 Pacific Lighting Service Company.	CI68-924.
224 Tennessee Gas Pipeline Company.	CI67-864.
225 Transwestern Pipeline Company.	CI68-1278.
226 Panhandle Eastern Pipe Line Co.	CI68-1431.
228 Tennessee Gas Pipeline Company.	CI69-57.
229 Panhandle Eastern Pipe Line Co.	G-4310.
230 Panhandle Eastern Pipe Line Co.	G-4308.
231 Texas Gas Transmission Corp	G-4560.
232 Northwest Central Pipeline Corp.	G-7007.
233 Kentucky West Virginia Gas Co.	G-7006.
234 Columbia Gas Transmission Corp.	G-7009.
235 Columbia Gas Transmission Corp.	G-7009.
236 MAPCO Gas Transmission Corp.	G-7011.
237 Kansas-Nebraska Natural Gas Co., Inc.	G-7012.
238 Northern Natural Gas Company.	G-7014.
239 Northern Natural Gas Company.	G-7015.
240 Northern Natural Gas Company.	G-7015.
241 Colorado Interstate Gas Company.	G-7016.
242 Northern Natural Gas Company.	G-7017.
243 MAPCO Production Company	G-7018.
244 Colorado Interstate Gas Company [1].	G-8994.
245 Northern Natural Gas Company.	G-9864.
246 Colorado Interstate Gas Company.	G-10802.
248 Columbia Gas Transmission Corp.	G-12487.
249 Northern Natural Gas Company.	G-12508.
250 Panhandle Eastern Pipe Line Co.	G-14139.
252 Panhandle Eastern Pipe Line Co.	G-7005.
253 Colorado Interstate Gas Company.	G-7006; G-7010.
255 Colorado Interstate Gas Company.	CI60-169.
256 Panhandle Eastern Pipe Line Co.	CI61-671.
257 Northwest Central Pipeline Corp.	G-7013.
258 Northwest Central Pipeline Corp.	CI61-1074.
259 Panhandle Eastern Pipe Line Co.	CI61-1469.
260 Panhandle Eastern Pipe Line Co.	G-7019.
261 Consolidated Gas Supply Corp	G-7074.
262 Consolidated Gas Supply Corp	G-7075.
263 Consolidated Gas Supply Corp	G-7076.
264 Consolidated Gas Supply Corp	G-7077.
265 Columbia Gas Transmission Corp.	G-7078.
267 Columbia Gas Transmission Corp.	G-7080.
269 Columbia Gas Transmission Corp.	G-7081.
270 Equitable Gas Company	G-7083.
271 Columbia Gas Transmission Corp.	G-7084.
272 Columbia Gas Transmission Corp.	G-7085.
274 Consolidated Gas Supply Corp	G-11120.
276 Columbia Gas Transmission Corp.	G-12618.
277 Consolidated Gas Supply Corp	G-13074.
278 Consolidated Gas Supply Corp	G-14386.
279 Columbia Gas Transmission Corp.	G-11648.
280 Consolidated Gas Supply Corp	CI60-139.
281 Columbia Gas Transmission Corp. [1].	CI62-458.
282 Consolidated Gas Supply Corp	CI62-498.
284 Panhandle Eastern Pipe Line Co.	CI63-1226.
285 Equitable Gas Company	CI63-1312.
286 Texas Gas Transmission Corp	CI63-1317.
287 Panhandle Eastern Pipe Line Co.	CI63-1454.
288 Northern Natural Gas Company.	CI64-425.
292 Columbia Gas Transmission Corp.	CI66-351.
293 Consolidated Gas Supply Corp. [1].	CI66-1250.
294 Consolidated Gas Supply Corp. [1].	CI67-824.
297 Columbia Gas Transmission Corp.	CI68-212.
299 Consolidated Gas Supply Corp	CI68-736.
300 Consolidated Gas Supply Corp	CI68-891.
302 Michigan Wisconsin Pipe Line Co.	CI68-1322.
303 Panhandle Eastern Pipe Line Co.	CI69-341.
304 Transwestern Pipeline Co	CI69-394.
305 Natural Gas Pipeline Co. of America.	CI69-406.
307 Panhandle Eastern Pipe Line Co.	CI69-951.
309 Panhandle Eastern Pipe Line Co.	CI69-1049.
310 Michigan Wisconsin Pipe Line Co.	CI69-443.
311 Michigan Wisconsin Pipe Line Co.	CI69-1096.
313 Michigan Wisconsin Pipe Line Co.	CI69-1236.
314 Texas Eastern Transmission Corp.	CI69-1235.
315 Tennessee Gas Pipeline Company.	CI69-1117.
316 Northern Natural Gas Company [1].	CI70-80.
317 Transwestern Pipeline Company.	CI70-176.
318 Consolidated Gas Supply Corp	CI70-129.
319 Mountain Fuel Supply Company.	CI70-481.
320 Tennessee Gas Pipeline Company [1].	CI70-691.
321 Tennessee Gas Pipeline Company [1].	CI70-691.
322 Tennessee Gas Pipeline Company.	CI70-598.
323 Tennessee Gas Pipeline Company.	CI70-660.
324 Montana-Dakota Utilities Company	CI69-168.
325 Michigan Wisconsin Pipe Line Co.	CI70-941.
326 Michigan Wisconsin Pipe Line Co.	CI70-961.
327 Columbia Gas Transmission Corp.	CI70-982.
329 Michigan Wisconsin Pipe Line Co.	CI70-1060.
330 Texas Eastern Transmission Corp.	CI71-237.
331 Tennessee Gas Pipeline Company.	CI70-1008.
332 Transcontinental Gas Pipe Line Corp.	CI71-207.
333 Columbia Gas Transmission Corp.	CI71-295.
334 Arkansas Louisiana Gas Company.	CI71-324.
335 El Paso Natural Gas Company	CI71-435.
337 Consolidated Gas Supply Corp	CI71-492.
338 Phillips Petroleum Company	G-14531, G-14527, G-14258, and G-14521.

APPENDIX—Continued

R.S. No. and purchaser	Certificate docket
339 Columbia Gas Transmission Corp.	CI71-559.
344 Northwest Central Pipeline Corp.	CI72-69.
345 Transwestern Pipeline Company[1].	CI72-78.
347 Columbia Gas Transmission Corp.	CI72-160.
349 Arkansas Louisiana Gas Company.	G-2712.
351 Southern Natural Gas Company[1].	G-2712.
352 United Gas Pipe Line Company[1].	G-2712.
353 United Gas Pipe Line Company.	G-2712.
354 United Gas Pipe Line Company.	G-2712.
355 Texas Eastern Transmission Corp.	G-3031.
356 United Gas Pipe Line Company[1].	G-3031.
357 United Gas Pipe Line Company.	G-3031.
358 Mobile Oil Corporation	G-3031.
362 Arkansas Louisiana Gas Company.	G-3031.
363 United Gas Pipe Line Company[1].	G-8712.
364 Tennessee Gas Pipeline Company.	G-8713.
365 Arkansas Louisiana Gas Company[1].	G-2712.
366 Texas Eastern Transmission Corp.	G-9272.
368 Texas Eastern Transmission Corp.[1].	G-9789.
369 United Gas Pipe Line Company.	G-12852.
370 Texas Eastern Transmission Corp.[1].	G-10188.
373 Texas Eastern Transmission Corp.[1].	G-16204.
374 United Gas Pipe Line Company.	G-16563.
375 Texas Eastern Transmission Corp.	G-19716.
376 Tennessee Gas Pipeline Company.	CI60-198.
377 Texas Eastern Transmission Corp.	CI61-1131.
378 United Gas Pipe Line Company[1].	CI61-1681.
379 Arkansas Louisiana Gas Company.	G-2712.
380 Truckline Gas Company	CI72-231.
381 Northern Natural Gas Company.	CI72-433.
382 El Paso Natural Gas Company	CI72-519.
383 Arkansas Louisiana Gas Company.	CI72-600.
384 Transwestern Pipeline Company.	CI72-635.
385 United Gas Pipe Line Company.	CI72-568.
387 United Gas Pipe Line Company.	CI72-725.
388 Panhandle Eastern Pipe Line Co.	CI72-822.
389 Michigan Wisconsin Pipe Line Co.	CI72-840.
390 United Gas Pipe Line Company.	CI61-1094.
391 Consolidated Gas Supply Corp	CI73-118.
392 Michigan Wisconsin Pipe Line Co.	CI73-38.
393 Panhandle Eastern Pipe Line Co.	CI73-117.
394 Consolidated Gas Supply Corp	CI73-206.
396 Tennessee Gas Pipeline Company.	CI73-328.

APPENDIX—Continued

R.S. No. and purchaser	Certificate docket
398 Tennessee Gas Pipeline Company.	CI73-468.
399 Columbia Gas Transmission Corp.	CI73-635.
400 Tennessee Gas Pipeline Company.	CI73-728.
402 Arkansas Louisiana Gas Company.	CI73-913.
406 Transwestern Pipeline Company.	CI74-194.
407 Northern Natural Gas Company.	CI74-435.
408 Panhandle Eastern Pipe Line Co.	CI74-615.
410 Truckline Gas Company	CI75-161.
411 Kansas-Nebraska Natural Gas Co., Inc.	CI75-227.
412 Michigan Wisconsin Pipe Line Co.	CI75-226.
414 United Gas Pipe Line Company.	CI75-327.
415 Tennessee Gas Pipeline Company.	CI75-489.
417 Northern Natural Gas Company.	CI75-539.
418 Texas Gas Transmission Corp	CI75-558.
419 El Paso Natural Gas Company[1].	CI75-605.
420 Transwestern Pipeline Company.	CI75-606.
421 Panhandle Eastern Pipe Line Co.	CI75-624.
423 Panhandle Eastern Pipe Line Co.	CI75-713.
424 Transwestern Pipeline Company.	CI76-38.
425 Truckline Gas Company	CI76-18.
426 Tennessee Gas Pipeline Company.	CI76-58.
427 Northern Natural Gas Company.	CI76-151.
429 Tennessee Gas Pipeline Company.	CI76-220.
430 Tennessee Gas Pipeline Company.	CI76-605.
431 Colorado Interstate Gas Company.	CI76-333.
432 Panhandle Eastern Pipe Line Co.[1].	CI76-334.
433 Transwestern Pipeline Company.	CI76-368.
434 Northern Natural Gas Company.	CI76-381.
435 Colorado Interstate Gas Company.	CI76-600.
436 Tennessee Gas Pipeline Company.	CI76-620.
437 El Paso Natural Gas Company	CI77-16.
438 Panhandle Eastern Pipe Line Co.	CI77-110.
440 Colorado Interstate Gas Company.	CI77-188.
441 Natural Gas Pipeline Co. of America[1].	CI77-99.
442 El Paso Natural Gas Company	CI77-327.
443 Transco Gas Supply Company	CI77-402.
444 Sea Robin Pipeline Company	CI77-421.
445 Natural Gas Pipeline Co. of America.	CI77-174.
446 El Paso Natural Gas Company	CI77-491.
447 El Paso Natural Gas Company	CI77-512.
448 Tennessee Gas Pipeline Company.	CI77-579.
449 Transco Gas Supply Company	CI77-594.
450 Transco Gas Supply Company	CI77-616.
451 El Paso Natural Gas Company	CI77-634.
452 Panhandle Eastern Pipe Line Co.	CI77-673.
453 Michigan Wisconsin Pipe Line Co.	CI77-693.
454 Northern Natural Gas Company.	CI77-822.

APPENDIX—Continued

R.S. No. and purchaser	Certificate docket
455 Michigan Wisconsin Pipe Line Co.	CI77-699.
456 Panhandle Eastern Pipe Line Co.	CI77-770.
457 Michigan Wisconsin Pipe Line Co.	CI78-6.
458 Kansas-Nebraska Natural Gas Co., Inc.	CI78-99.
459 Natural Gas Pipeline Co. of America.	CI78-156.
460 Panhandle Eastern Pipe Line Co.	CI78-211.
462 Michigan Wisconsin Pipe Line Co.	CI78-392.
464 Michigan Wisconsin Pipe Line Co.	CI78-409.
465 Panhandle Eastern Pipe Line Co.	CI78-560.
466 Northern Natural Gas Company.	CI78-564.
467 Northern Natural Gas Company.	CI78-615.
468 Transwestern Pipeline Company.	CI78-672.
469 Michigan Wisconsin Pipe Line Co.	CI78-688.
470 El Paso Natural Gas Company[1].	CI78-588.
471 Panhandle Eastern Pipe Line Co.	CI78-491.
472 El Paso Natural Gas Company	CI78-854.
473 Kansas-Nebraska Natural Gas Co., Inc.	CI78-838.
474 United Gas Pipe Line Company.	CI78-717.
475 Michigan Wisconsin Pipe Line Co.	CI78-1000.
476 Northern Natural Gas Company.	CI76-1048.
478 Northern Natural Gas Company.	CI78-693.
479 Colorado Interstate Gas Company.	CI78-1217.
480 El Paso Natural Gas Company	CI79-426.
481 Michigan Wisconsin Pipe Line Co.	CI79-462.
482 Tennessee Gas Pipeline Company.	CI79-508.
483 Michigan Wisconsin Pipe Line Co.	CI79-470.
486 Panhandle Eastern Pipe Line Co.	CI80-207.
487 Northwest Central Pipeline Corp.	CI75-85.
489 Northern Natural Gas Company.	CI80-310.
490 Michigan Wisconsin Pipe Line Co.	CI80-422.
492 Southern Natural Gas Company.	CI81-5-000.
493 El Paso Natural Gas Company	CI81-31-000.
494 Tennessee Gas Pipeline Company.	CI81-202-000.
495 Transcontinental Gas Pipe Line Corp.	CI81-300-000.
496 Sea Robin Pipeline Company	CI81-353-000.
497 Texas Eastern Transmission Corp.	CI81-44-000.
498 Northwest Central Pipeline Corp.	CI78-210.
499 Truckline Gas Company	CI82-204-000.
500 Truckline Gas Company	CI82-217-000.
501 Northern Natural Gas Company.	CI82-302-000.
502 Texas Eastern Transmission Corp.	CI82-350-000.
503 El Paso Natural Gas Company	CI82-434-000.
Pacific Alaska LNG Associates	CI78-905.
Pacific Alaska LNG Company	CI76-592.

[1] Operator, et al.

[FR Doc. 83-9504 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-423-000]

Connecticut Light and Power Company; Filing

April 5, 1983.

The Filing Company submits the following:

Take notice that on March 30, 1983, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Sales Agreement with respect to Middletown Unit No. 4 and Montville Unit No. 6 (Sales Agreement) between CL&P and Central Vermont Public Service Corporation (CVPS) dated as of November 1, 1982.

CL&P states that the Sales Agreement provides for a sale to CVPS of a specified percentage of capacity and energy from CL&P's Middletown Unit No. 4 and Montville Unit No. 6 generating units (the Units) during the period November 1, 1982 through February 28, 1983.

CL&P further states that the capacity charge rate for the proposed service is a rate determined on a cost-of-service basis and is determined in accordance with Appendix A of the Sales Agreement.

CL&P indicates that the energy charge is based upon CVPS' portion of the fuel expense applicable to the Units.

CL&P further indicates that the Station Service Energy Charge is the product of CVPS' portion of the total station service energy supplied by CL&P and the average cost rate of oil-fired generation on CL&P's system for the prior month.

The monthly transmission charge rate is equal to one-twelfth of the annual average unit cost of transmission service on the systems of the Northeast Utilities (NU) Companies determined in accordance with Appendix B of the Sales Agreement. The monthly Transmission Charge is determined by the product of (i) the transmission charge rate ($/KW-month), and (ii) the number of kilowatts of winter capability which CVPS is entitled to receive. The Energy Charge is based on CVPS' portion of the applicable fuel expenses of the Units and no special cost-of-service studies were made to derive this charge.

CL&P requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were mailed to CVPS, Rutland, Vermont.

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 Rule 211 or 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 22, 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 proceedings. 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. 83-9505 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-421-000]

Consumers Power Company; Tariff Change

April 6, 1983.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers Power) on March 30, 1983, tendered for filing standard Schedules of Rates Governing Firm and Interruptible Electric Transmission Service, which are proposed to supersede the rates for transmission service contained in Contract Rates FTR and ITR which were issued under authority of the order of the Federal Energy Regulatory Commission dated January 21, 1980 in Case No. ER80-98. Consumers Power states that the superseding Schedules of Rates will continue to make firm and interruptible electric transmission service available to any neighboring utility located in its service area.

Consumers Power states the filed superseding Contract Rate FTR will increase the weekly firm transmission rates from $.222 to $0.34 per kilowatt of billing demand for service at 138 kV or higher voltage, and from $.318 to $.47 per kilowatt of billing demand for service at 46 kV. The filed superseding Contract Rate ITR will increase the weekly interruptible transmission rates from $.172 to $.24 per kilowatt of billing demand for service at 138 kV or higher voltage, and from $.248 to $.33 per kilowatt of billing demand for service at 46 kV. The interruptible transmission rates for transactions of less than one week will be increased from 1.25 to 1.7 mills per kilowatt hour for service at 138 kV or higher voltage, and from 1.7 to 2.3 mills per kilowatt hour for service at 46 kV. Consumers Power requests that the superseding rates for electric transmission service be placed in effect on June 1, 1983.

Consumers Power further states that the increase in electric transmission rates is necessary because of continuing increases experienced in all elements of cost since its initial filing of Contract Rates FTR and ITR over three years ago, and to establish Contract Rates FTR and ITR at levels consistent with the rates it is charging for transmission service as an integral part of its coordination and interchange agreements with several electric utilities.

A copy of the filing was served upon the Michigan Public Service Commission. Consumers Power states that there are presently no customers receiving transmission service under the rate schedules to be superseded by this filing.

Any person desiring to be heard or to make any 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 21, 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 with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9483 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-416-000]

Consumers Power Company; Filing

April 5, 1983.

The filing Company submits the following:

Take notice that on March 28, 1983, Consumers Power Company (Consumers) tendered for filing Supplemental Agreements to each of its Coordinated Operating Agreements with the members of the Municipal and Cooperative Pool (MCP), the City of Lansing and the City of Holland. The filed Supplemental Agreements have the common purpose of adding a new general interruptible transmission service schedule as a party of the respective weekly rate of $0.24 per kilowatt per week and a rate of 1.7 mills per kilowatthour for transmission

service less than one week, and to increase rates for interruptible transmission service in existing Schedules A and B of such Agreements to such rates from a weekly rate of $0.172 per kilowatt per week and a rate of 1.25 mills per kilowatthour for transmission services less than one week.

Consumers states that the new general interruptible transmission service schedule designated "Schedule D" will enable Consumers to provide transmission service the MCP Members, Lansing, and Holland for various bulk power purhases from other utilities within the limits of Consumers' transmission capability.

Consumers requests an effective date of December 27, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the parties to the Supplemental Agreements and the Michigan 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 21, 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. 83-9506 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST79-16-002]

Delhi Gas Pipeline Corporation; Extention Reports

April 6, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the National Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the names and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before May 3, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 or 385.214).

All protest 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 party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST79-016-002	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Transwestern Pipeline Co.	3/04/83	D	6/04/83
ST79-109-002	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292	El Paso Natural Gas Co.	3/09/83	D	6/06/83
ST81-223-001	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292	Transwestern Pipeline Co.	3/14/83	D	6/13/83
ST81-358-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Delhi Gas Pipeline Corp.	3/11/83	B	6/06/83
ST81-392-001	Transcontinental Gas Pipe Line Corp., P.O. Box 1396, Houston, TX 77251	Texas Eastern Transmission Corp.	3/01/83	G	7/21/83

These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission Order.

Note.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 83-9484 Filed 4-11-83; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. ER80-613-000]

Duke Power Company; Refund Report

April 5, 1983.

The filing Company submits the following:

Take notice that on March 21, 1983, Duke Power Company submitted for filing a refund report pursuant to the Commission's letter order dated 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, NE., Washington, D.C. 20426, on or before April 15, 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. 83-9507 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-224-004]

El Paso Natural Gas Company; Petition to Amend

April 5, 1983.

Take notice that on March 16, 1983, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas, 79978, filed in Docket No. CP79-224-004 a petition to amend the order issued March 26, 1981, in Docket No CP79-224-000, as amended by order issued December 21, 1981, in Docket No. CP79-224-002, so as to conform the meter facility installations authorized in the implementation of the Washington Ranch Storage Project with the meter

facility actually installed, all as more fully set forth in the petition to amend which is on file with the Commission and open to pubic inspection.

Petitioner states that during construction of the Washington Ranch Storage Project, it was determined that dual 16-inch O.D. orifice-type meter runs could measure the anticipated volumes to be injected and withdrawn with the same degree of accuracy as the three 12-inch O.D. and one 6⅝-inch O.D. orifice-type meter runs which were proposed and authorized. It is asserted that since the dual 16-inch O.D. orifice-type meter runs would require less maintenance than those originally proposed and could be installed at a cost savings of approximately $188,967 to Petitioner, such facilities were constructed. Petitioner indicates that such facilities are located in Eddy County, New Mexico. Petitioner, therefore, proposes herein to conform the meter facility installations authorized in Docket No. CP 79-224 to the meter facility actually installed.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 26, 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. 83-9508 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6269-001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

April 5, 1983.

Take notice that Energenics Systems, Inc., ("Energenics"), Permittee for the proposed Chatfield Lake Project No. 6269, requested by petition dated March 18, 1983, that its preliminary permit be surrendered. The preliminary permit was issued on September 28, 1982, and would have expired on March 31, 1984. Energenics has determined that hydroelectric development is infeasible due to a lack of adequate head and flow.

The surrender of the preliminary permit for Project No. 6269 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9509 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-62-000]

Gas Gathering Corporation; Petition of Gas Gathering Corporation for Waiver of PGA Provisions and for Permission To Charge Rate in Excess of Filed Rate in Order To Implement Lump Sum Passthrough of Retroactive Producer Payment

April 5, 1983.

Take notice that on March 28, 1983, Gas Gathering Corporation (GGC) filed a petition with the Commission for approval to charge and receive from Transcontinental Gas Pipe Line Corporation (Transco) for direct passthrough and payment by GGC to Amoco Production Company (Amoco), a one-time retroactive payment of $263,994.22 applicable to retroactive sums due Amoco by GGC for production from Amoco's Maraist C-1 Well, Section 28 Field, St. Martin Parish, Louisiana. This authorization is sought by GGC because of its inability to pay this sum to Amoco directly and to recover a sum of this magnitude through its Account No. 191 under GGC's PGA provision.

GGC states that effective May 20, 1981, Amoco qualified the Maraist C-1 Well for Section 103 pricing and has demanded retroactive recovery of $263,994.22 from GGC, exclusive of interest, for the period through July 4, 1982. By Order issued August 27, 1982, in Docket No. RP82-93-000, the Commission authorized GGC to refund directly to Transco $714,703.57 which GGC had received from Amoco as a refund representing the difference between Section 102 and Section 109 pricing for production from the subject well during the period August 1, 1980 through October 31, 1981. However, that authorization did not include, and GGC did not at that time request, authorization for subsequent direct payback by Transco (through GGC) to Amoco of any amounts attributable to Amoco's subsequent qualification for prices above those authorized for Section 109 production.

GGC states that the monies received from this one-time charge to Transco of $263,994.22 in excess of GGC's filed rate will be directly passed through to Amoco. This payment will be shown as a simultaneous debit and credit to GGC's Account No. 191 in the month in which the passthrough is made.

GGC requests such waivers of the provisions of its PGA clause, or any other waivers, as are necessary to permit this procedure to be implemented. GGC believes that good cause exists for grant of this waiver, as (1) payment of this amount to Amoco would exacerbate an already serious underrecovery in GGC's Account No. 191 if the normal surcharge procedure is employed; (2) the resultant financial hardship would render GGC unable to earn its allowed rate of return; (3) the cost of carrying this underrecovery balance may exceed the carrying charges allowed by the Commission's regulations; and (4) use of this procedure will avoid Transco's payment of carrying charges on the principal amount of this retroactive payment.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before April 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9510 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-432-000]

GPU Service Corporation; Filing

April 6, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, GPU Service Corporation (GPU) tendered for filing a letter agreement between GPU as agent for Pennsylvania Electric Company (Pennsylvania) and Atlantic City Electric Company (Atlantic). GPU states that under the agreement Pennsylvania will provide scheduled transmission service for

Atlantic on a weekly basis utilizing its transmission facilities.

GPU requests an effective date of March 28, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 25, 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9485 Filed 4-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-223-000; Docket No. CP83-224-000]

Houston Pipe Line Company, Oasis Pipe Line Company; Applications

April 5, 1983.

Take notice that on March 9, 1983, Houston Pipe Line Company (Houston), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP83-223-000 and Oasis Pipe Line Company (Oasis), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP83-224-000 applications purusant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Section 284.127 of the Commission's Regulations for authority to transport natural gas for EL Paso Natural Gas Company (El Paso), all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Houston and Oasis state that they are currently engaged in the transportation of natural gas on behalf of El Paso pursuant to transportation agreements both dated March 29, 1979. It is stated that service under the 1979 agreements commenced June 9, 1979, for an initial term of two years under the self-implementing provisions of Section 284.122(a) of the Commission's Regulations and was extended for a period of two years commencing June 9, 1981, pursuant to Section 284.125 of the Commission's Regulations. In order that the transportation service might be continued on an uninterrupted basis, Houston and Oasis request the Commission to issue orders pursuant to Section 284.127(b) of its Regulations authorizing a continuation of the transportation arrangements for a period of two years commencing June 9, 1983, and ending June 8, 1985.

Houston and Oasis propose to transport up to 50,000 Mcf of gas per day, or such additional daily volumes as their operating conditions would reasonably permit, for El Paso. Houston, it is asserted, would transport El Paso's volumes from a point or points located on Houston's pipeline facilities in Fort Bend, Harris and Waller Counties, Texas, to a point located on Oasis' pipeline facilities near Katy, Waller County, Texas. Oasis states that it would then transport El Paso's gas to the innerconnection of Oasis' and El Paso's pipeline facilities in Pecos County, Texas. It is stated that service would continue to be conducted under the terms and conditions of amendments to the 1979 agreements both dated February 25, 1983.

Houston states that effective June 9, 1983, El Paso would pay Houston 2.0 cents per million Btu for the transportation service Houston performs. Oasis states that effective June 9, 1983, El Paso would pay Oasis 12.39 cents per million Btu for the transportation service Oasis performs.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 26 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 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. 83-9511 Filed 4-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-418-000]

Kansas Power and Light Company; Filing

April 5, 1983.

The filing Company submits the following:

Take notice that on March 29, 1983, Kansas Power and Light Company (KPL) tendered for filing proposed new increased Schedules of Rates and Charges for Wholesale Service-Rural Electric Cooperatives and for Wholesale Service-Municipalities to supersede and replace those rate provisions of KP&L's contract rate schedules presently in effect and on file with the Commission which relate to seventeen (17) wholesale cooperative customers and thirty-eight (38) wholesale municipal customers of KP&L located in the State of Kansas.

KP&L states that the proposed changes would increase revenues from jurisdictional sales and service by $10,854,594 based on the twelve-month period ending June 30, 1984. The changes embodied in the new Schedules of Rates and Charges include revised rates for capacity charges and energy charges.

KP&L further states that under its presently effective rates therefore its rate of return on the allocated cost of service to wholesale cooperative customers is 6.407%. Such rates of return on allocated cost of service to the wholesale full requirements municipal customers is 6.274%, and to the wholesale partial requirements municipal customers is 0.766%. The increased annual revenues would result in rates of return of 11.781% on the cooperative class of wholesale service, 11.776% on the full requirements municipal class of service and 11.793% on the partial requirements municipal class of service based on the twelve-month period ended June 30, 1984.

KP&L requests an efffective date of June 1, 1983.

Copies of the filing were served upon KP&L's seventeen wholesale cooperative customers and thirty-eight wholesale municipal customers and upon the State Corporation Commission of the State 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, 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 petitions or protests should be filed on or before April 21, 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 filling are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9512 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-200-003]

Maine Public Service Company; Refund Report

April 5, 1983.

The filing Company submits the following:

Take notice that on October 19, 1982, Maine Public Service Company submitted for filing a refund report pursuant to the Commission's order of September 30, 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, NE., Washington, D.C. 20426, on or before April 15, 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. 83-9513 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-48-000]

Michigan Wisconsin Pipe Line Company; Filing of Motion for Waiver of Filing Date

April 5, 1983.

Take notice that on March 28, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) submitted for filing, pursuant to Section 385.212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, a motion that the Commission waive the previously established date of May 1, 1983, as the previously established effective date for Michigan Wisconsin's next PGA rate change filing under Section 154.38 of the Commission's Regulations under the Natural Gas Act, in order to permit Michigan Wisconsin to temporarily defer the filing of its May 1, 1983 purchased gas adjustment rate change filing pursuant to Section 15 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1, until June 1, 1983, to be effective July 1, 1983.

Michigan Wisconsin states that it has discussed this filing with all of its resale customers and states that all such customers are in support of this motion.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before April 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9514 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-68-000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

April 5, 1983.

Take notice that on March 31, 1983, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 and Second Revised Volume No. 2 to become effective May 1, 1983

When compared to the Docket No. RP82-62 rates presently effective on motion, the proposed change in rates shows a revenue decrease of $6.5 million. However, when compared with the pending lower interim settlement rates, the proposed rates indicate a $50 million revenue increase.

In addition to reflecting the variations in operating costs, the proposed sales rates reflect the effect of a 22 Bcf decrease in sales volumes, a modified fixed-variable rate design, and a significant increase in new transportation revenues which serve to shield the sales customers from the full impact of increases in operating expenses.

Also included are tariff provisions to incorporate a transportation cost tracking mechanism and a tariff provision to recover carrying costs associated with variation in payments for undelivered gas costs.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before April 15, 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. 83-9515 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-417-000]

Niagara Mohawk Power Corporation; Filing

April 5, 1983.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on March 29, 1983, tendered for filing a cancellation of Niagara's Rate Schedule FERC No. 118, an agreement between Niagara and the Central Vermont Public Service Corporation (Central Vermont) dated December 1, 1981 which was filed with the Federal Energy Regulatory Commission (FERC) on December 21, 1981.

Niagara states that this cancellation terminates the agreement that provides for the purchase for resale to Central Vermont Public Service Corporation of short term power and associated energy from Ontario Hydro and provides transmission service for the delivery of said short term power and associated energy.

Niagara further states that the terms of the agreement known as Rate Schedule FERC No. 118 expired of its own terms as of December 31, 1981. Niagara is requesting a cancellation date of December 31, 1981.

Copies of the filing were served upon Central Vermont Public Service Corporation and the Public Service Commission of the State of New York.

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 Practive and Procedure [18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before April 21, 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. 83-9406 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No ER83-419-000]

Niagara Mohawk Power Corporation; Filing

April 5, 1983.

The filing Company submits the following:

Take notice that on March 29, 1983, Niagara Mohawk Power Corporation (Niagara) tendered for filing a cancellation of Niagara's Rate Schedule No. 119, an agreement between Niagara and the Department of Public Service for the State of Vermont (Public Service) dated November 1, 1981 which was filed with the Federal Energy Regulatory Commission (FERC) on January 25, 1982.

Niagara states that this cancellation terminates the agreement that provides for the purchase for resale to the Public Service of short term power and associated energy from Ontario Hydro (Hydro) and provides transmission service for the delivery of said short term power and energy.

Niagara further states that the agreement known as Rate Schedule FERC No. 119 expired of its own terms as of April 30, 1982. Niagara is requesting a cancellation date of April 30, 1982.

Copies of the filing were served upon the Department of Public Service for the State of Vermont and the Public Service Commission of the State of New York.

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 21, 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. 83-9518 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 287-001]

North Counties Hydro-Electric Company, Hydro-Op One Associates; Application for Transfer of License (Major)

April 5, 1983.

Take notice that North Counties Hydro-Electric Company, Licensee for the Dayton Project, and Hydro-Op One Associates, Inc. have requested that the project license be transferred to Hydro-Op One Associates. The Dayton Project is located on the Fox River in La Salle County, Illinois. The projects installed capacity is 3,680 kilowatts.

Comments, Protests, or Motion to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (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 filed on or before May 16, 1983.

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 this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9497 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-500-001]

Northern Natural Gas Company, Division of InterNorth, Inc.; Amendment To Application

April 5, 1983.

Take notice that on March 15, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-500-001 an amendment to the application filed in Docket No. CP82-500-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect (1) a realignment of additional volumes of firm entitlement for certain of its market area utility customers; (2) an increase in peak day, non-peak day and annual entitlements for certain of Northern's south-end area customers and (3) the construction and operation of facilities to accommodate the delivery of the proposed volumes herein, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northern states that subsequent to the date of its original filing further changes in market requirements precipitated by deteriorating economic conditions have caused various market area utility customers to reduce their level of increases in firm entitlement originally proposed in the application. Such reductions in firm entitlement are proposed to be reallocated to those customers seeking additional firm entitlement for the 1983-84 heating season and beyond. It is asserted that the adjustment and realignment of volumes would result in a net decrease of 81 Mcf per day in Northern's authorized sales level to its market area utilities comprised of a 12,225 Mcf per day decrease in contract demand, 4,422 Mcf per day increase in seasonal service demand, 1,913 Mcf per day decrease in peaking service demand, and 9,635 Mcf per day increase in winter period service demand.

In addition, Northern proposes to make certain changes in the firm entitlement of certain of its south-end area customers. More specifically, Northern proposes to eliminate the 4,500 Mcf per day proposed increase in contract demand for High Plains Natural Gas Company (High Plains) under Northern's Rate Schedule X-51. Northern proposes to increase Westar Transmission Company's, a Division of Pioneer Corporation (Westar), summer period firm maximum daily quantity from 60,000 Mcf per day to 100,000 Mcf per day and to increase its firm summer contract quantity from 2,500,000 Mcf to 5,000,000 Mcf under its Rate Schedule X-86. Northern further proposes to

increase the firm entitlement currently sold to Westar under its Rate Schedule X–23 from 1,300 Mcf per day to 1,800 Mcf per day.

As a result of the changes in firm entitlement proposed herein, it is asserted that the facilities for which authorization is requested in the original application must be revised to provide a more economic and efficient means of delivering the gas to the appropriate utility customers. Northern states that the modification of the LeGrand, Iowa, TBS No. 1 and the construction of a new delivery point to High Plains in Canadian, Texas, are no longer needed. Furthermore, Northern asserts that construction of 2.05 miles of 4-inch loopline on the St. Michael branchline and construction of 4.40 miles of 6-inch loopline on the Buffalo branchline are necessary to effectuate delivery of the revised volumes to Northern's customers. As a result Northern is requesting authority to construct and operate four branchline loops and to modify two town border stations to accommodate the proposed deliveries of natural gas to Northern's customers. Northern estimates that such revisions would increase the total project cost to $2,708,441 compared to the originally projected facility cost of $1,985,547.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 26, 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 384.211) 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 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-0496 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83–215–000]

Northern Natural Gas Company Division of InterNorth, Inc.; Application

April 6, 1983

Take notice that on March 2, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83–215–000 application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transfer of 1,000 Mcf per day of firm natural gas entitlement from Minnegasco Inc. (Minnegasco) to Iowa Public Service Company (IPS), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to transfer 900 Mcf per day of contract demand, 55 Mcf per day of seasonal service and 45 Mcf per day of winter period service from Minnegasco to IPS. The proposed transfer would be made as a result of the acquisition by IPS of the distribution facilities previously owned by Minnegasco and utilized to provide natural gas service to the town of Rock Rapids, Iowa, it is explained.

It is stated that the proposed transfer of firm entitlement would result in a more expedient and efficient means of serving Rock Rapids, Iowa, since the town is located outside of the primary service area of Minnegasco and within the primary service area of IPS.

It is asserted that the subject proposal would have no effect on Applicant's presently authorized level of firm entitlement. Applicant states that there would be no abandoment of service to end-use customers as a result of the proposed transfer of firm entitlement and no additional facilities would be required as a result of the proposed transfer of firm entitlement.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 27, 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 National 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. 83-0496 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83–420–000]

Northern States Power Company (Wisconsin); Filing

April 5, 1983.

The filing Company submits the following:

Take notice that on March 29, 1983, Northern States Power Company of Eau Claire, Wisconsin (NSP) tendered for filing proposed changes in its currently effective rate schedules for service to its thirteen wholesale customers.

NSP states that the proposed rate schedule changes are in two Phases (A and B) and will increase revenues from the sales to these customers by (Phase B) $507,505 based on sales for the January 1, 1983 to December 31, 1983 test year. The rate schedule changes include a revised W–1 rate for NSP's thirteen all-requirements municipal customers, a revised PS–1 rate, and a cancellation of the LP–1 rate schedule.

NSP requests effective dates of 60 and 61 days from the date of the filing for the Phase A and Phase B increases, respectively.

Copies of the filing were served upon each customer and upon the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR

§§ 385.211, 385.214). All such petitions or protests should be filed on or before April 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9499 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-425-000]

Ohio Edison Company; Proposed Tariff Change

April 6, 1983.

The filing Company submits the following:

Take notice that Ohio Edison Company (Ohio Edison) on March 30, 1983, tendered for filing proposed changes in the rate sheets applicable to its partial requirements contracts with twenty municipal wholesale customers taking service pursuant to Ohio Edison's FERC Electric Tariff, Original Volume No. I, and proposed changes in FERC Rate Schedule No. 140 by which wholesale service is provided to the City of Oberlin.

Ohio Edison states that the proposed changes would increase revenues from jurisdictional partial requirements sales and service by $3,500,000 based on the twelve-month period ending December 31, 1983.

Ohio Edison proposes an effective date of June 1, 1983.

Ohio Edison further states that the reason for the proposed increase is that rates for service to its municipal wholesale customers are no longer just and reasonable, being inadequate to provide a basis for attracting capital on reasonable terms and to permit issuance of senior securities as a means of obtaining capital.

According to Ohio Edison, copies of the filing were served on the Company's jurisdictional customers affected by the proposed changes and The Public Utilities Commission of Ohio.

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 835.214). All such motions or protests should be filed on or before April 22, 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 proceedings. 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. 83-9487 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-431-000]

Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central & Light Company; Filing

April 6, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, the GPU Service Corporation (GPU) tendered for filing, on behalf of the above listed utilities, Proposed Revision 9 of Schedule 4.01 to the existing Agreement among them, dated July 21, 1969.

GPU states that Schedule 4.01 defines the installed capacity obligations within GPU and sets forth the weekly rate per kilowatt on which payments shall be based for deficiency of capacity among the GPU System Companies.

GPU further states that revisions to this Schedule is proposed to conform with changes, submitted to the FERC, in the Pennsylvania-New Jersey-Maryland Interconnection Agreement to which the GPU System Companies are signatories.

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 25, 1983. Protests will be considered by the Commission 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 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. 83-9488 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-433-000]

Rochester Gas and Electric Corporation; Filing

April 6, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, Rochester Gas and Electric Corporation (RG&E), on March 31, 1983, tendered for filing proposed changes in its Rate Schedule FERC No. 25. The proposed changes would increase revenues for jurisdictional services by $189,688 based upon the 12 month period ending December 31, 1981. Changes in the terms and conditions of service are also proposed, including the obligation to provide firm transmission service to certain customers of the Power Authority of the State of New York (the Authority) located within or contiguous to RG&E's service area, a raise in the per kilowatt of billing demand charge and the elimination of the kilowatt-hour charge, the obligations and payment terms of servicing temporary load increases and of installing and maintaining new supply circuits and ancillary equipment, and limitations on liability for interruptions of service.

RG&E requests an effective date of July 1, 1983.

Copies of the filing were served upon the Authority, RG&E's only customer for this service, and upon the Public Service Commission of the State of New York.

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 25, 1983. Protests will be considered by the Commission 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 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. 83-9489 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS72-1005-000 et al.]

SB Special Investments Holding Company (Salomon Brothers), et al.; Applications for "Small Producer" Certificates [1]

April 5, 1983.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications 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 20, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates 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 be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS72-1005-000.	[1]3/11/83	SB Special Investments Holding Company (Salomon Brothers), One New York Plaza, 42nd Floor, New York, New York 10004.
CS83-70-000	3/9/83	Jack H. Smith, P.O. Box 1087, Ardmore, Oklahoma 73401.
CS83-71-000	3/11/83	James P. Flanagan, P.O. Box 245, Hooker, Oklahoma 73945.
CS83-72-000	3/14/83	Taylor Energy Company, 234 Loyola Bldg., Suite 500, New Orleans, Louisiana 70112.
CS83-73-000	3/14/83	Energy Methods Corporation, 2850 Security Life Bldg., Denver, Colorado 80202.
CS83-74-000	3/21/83	American National Petroleum Company, P.O. Box 42175, Houston, Texas 77242.
CS83-75-000	3/22/83	Arkoma Production Company, 5000 Rogers Avenue, Suite 810, Fort Smith, Arkansas 72903.

[1] Letter received dated March 10, 1983, requesting that the Small Producer Certificate of Public Convenience and Necessity Docket No. CS72-1005, originally issued to Salomon Brothers be redesignated to apply to SB Special Investments Holding Company effective October 1, 1982.

[FR Doc. 83-9500 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-244-000]

Transcontinental Gas Pipe Line Corporation; Application

April 6, 1983.

Take notice that on March 18, 1983, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83-244-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of The Brooklyn Union Gas Company (Brooklyn Union), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to a transportation agreement dated November 22, 1982, as amended February 14, 1983, Applicant proposes to transport on an interruptible basis for Brooklyn Union, an existing resale customer, up to a total aggregate quantity of 10,000 dt equivalent of natural gas per day which Brooklyn Union would purchase from its exploration and production affiliate, Fuel Resources Inc. (Fuel Resources), and from co-producers of Fuel Resources in two geographically separate areas in Barbour, Randolph, and Tucker Counties, West Virginia, and in the Gulf Coast area where Fuel Resources is engaged in a joint venture arrangement which has completions in Mississippi, Louisiana, and onshore and offshore Texas.

Applicant states that the West Virginia gas would be transported by Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company and delivered to Applicant in Terrebonne Parish, Louisiana; and that the Gulf Coast gas would be gathered or transported to Applicant's system by other pipeline companies when such gas is ready for production. Applicant further states that all quantities transported by it would be delivered to Brooklyn Union at existing delivery points to that customer in New York.

For such transportation, Applicant proposes to charge Brooklyn Union its long-haul interruptible transportation rate provided in its Rate Schedule T (Supply Area to Zone 3) on file in its FERC Gas Tariff, Second Revised Volume No. 1, presently 26.4 cents per dt equivalent. Applicant also proposes to retain initially 5.2 percent of the transportation quantities for compressor fuel and line loss make-up also as provided in Rate Schedule T.

Applicant requests flexible authority to attach Fuel Resources' supplies at various locations in its supply area without the necessity of filing a separate certificate application each time a source becomes productive, subject to appropriate reporting requirements.

It is asserted that the subject transportation service would assist Brooklyn Union in its self-help efforts to secure system supplies for distribution to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 27, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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. 83-9490 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-422-000]

Union Electric Company; Filing

April 5, 1983.

The filing Company submits the following:

Take notice that on March 30, 1983, Union Electric Company (Union) tendered for filing a Letter Agreement dated March 14, 1983 between Arkansas Power & Light Company, Missouri Utilities Company, and Union. Union requests an effective date of 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 21, 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. 83-9501 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-428-000]

Utah Power & Light Company; Filing

April 6, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, Utah Power & Light Company (UP&L) tendered for filing a proposed change in its FERC Electric Tariff, which would increase rates and charges to the City of Manti, Utah, under Rate Schedule RS-2 (closed) by approximately $89,000 per year, based on estimated sales for the year 1983.

UP&L proposes that the higher rates go into effect prospectively on the date when the FERC renders its decision determining just and reasonble rates for Manti.

A copy of the filing was served upon the City of Manti, Utah.

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 22, 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. 83-9491 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-427-000]

Utah Power & Light Company; Filing

April 6, 1983

The filing Company submits the following:

Take notice that on March 31, 1983, Utah Power & Light Company (UP&L) tendered for filing a proposed change in its FERC Electric Tariff, which would increase rates and charges to firm interstate resale customers in Utah, Idaho and Wyoming in two phases. Based on estimated sales for the year 1983, Phase 1 rates, proposed to become effective May 31, 1983, would increase revenues by $4,244,000; Phase 2 rates, proposed to become effective June 1, 1983, would increase annual revenues by an additional $11,315,000.

Copies of the filing were served upon UP&L's jurisdictional 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, 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 22, 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. 83-9492 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-430-000]

Virginia Electric and Power Company; Filing

April 6, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, Virginia Electric and Power Company (VEPCO) tendered for filing proposed changes in its electric resale rate schedules presently on file with the Commission which are applicable to Rural Electric Cooperatives and Wholesale Municipalities including North Carolina Eastern Municipal Power Agency. VEPCO has submitted riders that would recover the revenues associated with the inclusion of one-half of construction work in progress in rate base. Based on the test period 12 months ending December 31, 1983 conditions, VEPCO estimates that the proposed changes in resale rates will increase annual revenues from Cooperative Customers by $24.6 million, or 15.2 percent, and from Municipal Customers by $9.6 million, or 16.1 percent. In addition, VEPCO has submitted a proposed increase in the rate for transmission service to North Carolina Eastern Municipal Power Agency.

VEPCO states that the increase in wholesale rates is needed to compensate the Company for the increased costs of doing business and to achieve a reasonable overall rate of return of 11.56 percent.

Copies of the filing were served upon VEPCO's jurisdictional Wholesale Customers, the Virginia State Corporation Commission 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 25, 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. 83-0493 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-114-000]

Western Massachusetts Electric Company; Order Rejecting Filing

Issued April 6, 1983.

On November 10, 1982, Western Massachusetts Electric Company (WMECO) filed on behalf of the Northeast Utilities Companies (NU Companies)[1] an amendment to the Northeast Utilities Generation and Transmission Agreement (NUG&T)[2] providing for a change in the determination of the common equity component in the cost of service formula contained in the NUG&T. Certificates of concurrence executed by the other NU Companies were also submitted.

WMECO has made this filing pursuant to an order of the Massachusetts Department of Public Utilities (DPU) which, WMECO believes, does not have authority to order such a change to be made in a rate schedule subject to our jurisdiction.[3] Accordingly, WMECO has filed an appeal of the Massachusetts DPU order which is pending in the Massachusetts Supreme Judicial Court. Since WMECO was unable to obtain a stay of the Massachusetts DPU order, it has filed the amendment in order to comply with that commission's directive pending the court's action.

The amendment provides for a change to permit use of a formula to determine existing system weighted cost of common equity utilizing for each of the NU Companies a return on common equity equivalent to that allowed in the most recent rate order of the regulatory authority having principal jurisdiction over the individual company's rates. For each of the NU Companies, the regulatory body having principal jurisdiction over the company's rates is the respective state commission.

WMECO and the other NU Companies propose that the amendment not become effective until the later of two events: (a) this Commission's final action on the rate filing (including action subsequent to judicial review) or (b) a final resolution of WMECO's court appeal of the Massachusetts DPU order.

On December 15, 1983, the DPU filed a notice of intervention and protest in which it stated its opposition to any delay in the effective date of the proposed amendment. The DPU acknowledged that this amendment was filed pursuant to an order of that agency. The order found that such an amendment was in the public interest of the citizens of Massachusetts, as well as the ratepayers of WMECO.

An examination of the DPU order indicates that the DPU believes the NUG&T Agreement carrying charge mechanism has understated the true cost of capital to WMECO. Since WMECO is a net provider of capacity under the agreement, the DPU believes that WMECO has been underpaid for its capital by the other NU subsidiaries. In order to remedy the situation, the Massachusetts DPU has ordered WMECO to file the proposed amendment.

On December 21, 1982, WMECO filed a response to the Massachusetts DPU protest. WMECO does not oppose the DPU's intervention but does not object to its request for immediate review and approval of the amendment. According to WMECO, an effective date earlier than that proposed in the filing would result in complicated refund problems. WMECO further contends that if the Commission orders an earlier effective date, the Commission would be, in effect, deciding the merits of the appeal pending in the Massachusetts courts.

Discussion

The parties are in agreement that this filing was made only because the Massachusetts DPU ordered that it be made. WMECO has clearly stated its opposition to the filed amendment and has challenged the DPU order in the Massachusetts courts. This rate change has, in effect, not been requested by WMECO but, rather, by the Massachusetts DPU.

We are therefore confronted with what we believe to be a question of first impression before this Commission: whether we must or even may accept a rate filing made under protest by a utility at the direction of a state commission.

In answering this question, we must look first at the statutory scheme of the Federal Power Act. In explaining the "substantially identical" [4] provisions of the Natural Gas Act, the Supreme Court stated in *United Gas Pipe Line Co. v. Mobile Gas Corp.*:[5]

> Section 4(d) provides not for the filing of "proposals" but for notice to the Commission of any "change . . . made by" a natural gas company, and *the change is effected, if at all, not by an order of the Commission but solely by virtue of the natural gas company's own action.* If the purported change is one the natural gas company has the power to make, the "change" is completed upon compliance with the notice requirement and the new rate has the same force as any other rate—*it can be set aside only upon being found unlawful by the Commission.* (emphasis added)

From this, the Court concluded that:

> *except as specifically limited by the Act, the rate-making powers of natural gas companies were to be no different from those they would possess in the absence of the Act:* to establish ex parte, *and change at will,* the rates offered to prospective customers; of to fix by contract, and change only by mutual agreement, the rate agreed upon with a particular customer. 350 U.S. at 343 (emphasis added).

Citing this language with approval in *United Gas Co. v. Memphis Gas Division,*[6] the Court concluded:

> United, like the seller of an unregulated commodity, *has the right in the first instance to change its rates as it will,* unless it has undertaken by contract not be do so . . . .

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[1] The operating subsidiaries of Northeast Utilities are Western Massachusetts Electric Company, Connecticut Light & Power Company, Holyoke Water Power Company, and Holyoke Power & Electric Company.

[2] The NUG&T Agreement is a coordination and interchange agreement among the NU Companies which provides for the planning and operation of the bulk power supply system of the NU Companies on a one-system basis.

[3] The Massachusetts DPU also ordered that WMECO alternatively ask for an increase in its common equity return component to 17% if the Commission should deny the request for a variable common equity return rate. WMECO, however, has not made the alternative request in this filing.

[4] *F.P.C. v. Sierra Pacific Power Co.*, 350 U.S. 348, 353 (1956).

[5] 350 U.S. 322 342 (1956).

[6] 358 U.S. 103 (1958).

It seems plain that Congress, in so drafting the statute, was not only expressing its conviction that the public interest requires the protection of consumers from excessive prices for natural gas, *but was also manifesting its concern for the legitimate interests of natural gas companies in whose financial stability the gas-consuming public has a vital stake.* 358 U.S. at 113 (emphasis added).

The statutory scheme of the FPA is therefore designed to balance the interests of utilities and their ratepayers by permitting the utilities to voluntarily change their jurisdictional rates, subject only to contractual limitations and review by this Commission.

Important consequences clearly follow from this statutory scheme. A permissible rate change filed by a utility (unlike a proposed change in rate by any other party) becomes effective unless it is suspended and until it is found to be unlawful by the Commission. If the Commission takes not action at all, the rate change becomes effective as a matter of law after the statutory notice period has run. Thus, is a real and important way, the utilities continue under the FPA to establish and change their rates, subject only to review by this Commission.

This statutory scheme would clearly be greatly altered if a state commission through its orders could control the timing and content of wholesale rate filings made by utilities. The state commission would in reality be "putting into effect a schedule of prices applying to the sale of electric current in interstate commerce," the very thing found to be outside the state commission's authority by the Supreme Court in *Public Utilities Commission of Rhode Island v. Attleboro Steam & Electric Company.*[7] While this Commission could ultimately determine whether the rate was lawful, the timing and amount of the rate filing would have been determined by the state commission. We would, in effect, be reviewing a rate established by that commission, not by the filing utility. Nevertheless, the filed rate would enjoy all the protections established by the Federal Power Act to preserve the right of utilities to set and change their own rates, subject only to our review. We therefore believe that allowing a state commission to control through its orders the timing and content of jurisdictional rate filing would place a direct burden on interstate commerce, contrary to the commerce clause of the Constitution.

The Supreme Court has said in dictum that this Commission:

. . . has no power to prescribe the rates for retail sales of power companies. Nor, accordingly, would it have power to remedy an alleged discriminatory or anticompetitive relationship between wholesale and retail rates by ordering the company to increase its retail rates. *FPC v. Conway Corp.*, 426 U.S. 271 at 276–277 (1976).

Likewise, we believe that state commissions lack the power to order a utility to increase or decrease its rates which are jurisdictional to this Commission.

We note that even this Commission generally cannot order changes to be filed in jurisdictional rates until after a hearing and a determination of the justness and resonableness of both the existing and the new rates. It would clearly be illogical to conclude that a state commission, which has no jurisdiction over the rates in question, could have greater power to order wholesale rate change filings than the Commission which has been entrusted with wholesale regulation.

Nor would such a scheme be feasible from a practical point of view. If State Commission A orders a change to be made in a wholesale rate filing, presumably because it would benefit the ratepayers in State A, then State Commission B might well retaliate by ordering a counter rate filing that would benefit the ratepayers in State B. The filing utility not only would have lost the right to set its own rates, but also would be placed in the incongruous and practicably infeasible position of advocating competing and contradictory rate changes. It was to protect against such competing local state interests that a Federal Commission was given jurisdiction to protect the national interest in transmission and sales for resale in interstate commerce.

Our conclusion that state commissions may not order a utility to make rate change filings before this Commission is strengthened by the fact that the Congress specifically provided the state commissions with another avenue by which to make known their concern about a utility's wholesale rates. Section 201(a) of the FPA provides that "upon complaint," the Commission may investigate any rates or charges collected by a utility for jurisdictional transmission and sales for resale. 16 U.S.C. 824e(a). Section 306 states clearly that "any person, State, municipality, or State commission" may file such a complaint. 16 U.S.C. 825e. Thus the Congress provided a specific statutory mechanism for state commission input.[8]

Under the FPA, the utilities set rates in the first instance, subject to review by this Commission on its own motion or on complaint by any person, including any state commission. However, the state commission or other complainant must show, and this Commission must find, that the utility's existing rate is unlawful before a rate change can be effected. And if the Commission fails to take any action, the filing of a complaint cannot effect a rate change by operation of law as can a contractually permissible rate filing made by a utility.

We believe that the Massachusetts DPU has impermissibly attempted to alter this statutory scheme by ordering WMECO to file a change in rates desired by the DPU. Under these circumstances, we believe that the filing is improper since the DPU cannot do indirectly that which it clearly cannot do directly, *viz.*, file a change in WMECO's rates which becomes effective unless the Commission finds it unlawful. We shall therefore reject the filing as a legal nullity,[9] made under duress, without prejudice to the proper filing of a complaint by the Massachusetts DPU.

Even if we were to conclude that we could accept the filing without violating either the Commerce Clause or the Federal Power Act, we would not do so for administrative reasons. WMECO has made it clear that it does not support the filing except as ordered to do so by the DPU. If WMECO prevails in its challenge to the DPU order in the Massachusetts courts, therefore, it will undoubtedly withdraw the filing. We do not think that this Commission's scarce resources should be wasted in evaluating a filing and rate change which may well be withdrawn. WMECO has asked for an effective date which, at the earliest, would occur after a final resolution of its court appeal of the Massachusetts DPU order. We believe that such a date is clearly more than 120 days in the future, and, under the circumstances, we would find no good cause to waive the maximum 120 day notice requirement in order to accept the filing.

The Commission orders:

(A) WMECO's filing of a proposed amendment to the NUG&T Agreement between itself and the NU Companies is hereby rejected for the reasons set forth above.

(B) The Secretary shall promptly publish this order in the **Federal Register**.

[7] 273 U.S. 77 (1927).

[8] We would add that under this Commission's regulations and established practice, a state commission, like any other interested party, may also seek to intervene and express its views each time that the utility itself files to effect a change in a rate schedule subject to our jurisdiction.

[9] *Municipal Light Boards of Reading, et al. v. F.P.C.*, 450 F. 2d 1341, 1346 (D.C. Cir. 1971).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9596 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-429-000]

Wisconsin Power and Light Company; Filing

April 6, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, Wisconsin Power and Light Company (WP&L) tendered for filing proposed changes in its W-2 and W-3 Electric Service tariffs, Wholesale For Resale. The Company has proposed interim changes which would increase revenues from W-2 Customers by $523,000 and increase revenues from W-3 Customers by $672,000 for the period the rates are collected subject to refund based on the 12-month period ending June 30, 1984. In addition, the Company is seeking permanent annual increases in W-2 revenues of $789,000 and $1,977,000 in W-3 revenues based on the same 12-month period ending June 30, 1984.

WP&L states that the proposed rate increase is necessary to meet rising operating costs. By its filing, the Company is requesting that the interim changes become effective on July 1, 1983.

Copies of the filing were served upon the public utility's jurisdictional customers, and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the 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 or 385.214). All such motions or protests should be filed on or before April 25, 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. 83-9494 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-M

Allocation Systems Test; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: The Department of Energy (DOE) is holding an open public meeting to provide a briefing on DOE planning efforts in connection with United States participation in the International Energy Agency's Fourth Allocation Systems Test (AST-4). Representatives of private sector groups (including U.S. oil companies, National Defense Executive Reserves, consumer interest groups and industrial consumers), of State energy offices (including the National Governors Association and the National Conference of State Legislatures), and of other Federal agencies are expected to attend.

This is not a meeting to carry out the Voluntary Agreement and Plan of Action to Implement the International Energy Program; therefore, the antitrust defense provided by Section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, is not available in respect to this meeting.

DATE AND LOCATION: April 13, 1983 at 9:15 a.m., 1000 Independence Avenue, SW., Washington, D.C. 20585, Room 1E-245.

FOR FURTHER INFORMATION CONTACT: Jan Marfyak, Office of Energy Emergencies, U.S. Department of Energy, Room GH-060, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4000.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is attached as an appendix.

Issued in Washington, DC, April 11, 1983.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

Preliminary Agenda

AST-4 Orientation Meeting

April 13, 1983.

Room 1E-245, Forrestal

9-15-9:30—Opening Remarks—R. Winkler
9:30-9:45—International Overview—E. Forman
- —IEA Background
- —IEP Agreement
- —IEA Emergency Management Organization

9:45-10:00—AST-4 Overview—R. Diaz
- —Emergency Sharing System
- —Responsibilities of "Reporting" and "Non-Reporting" Companies
- —NESO Responsibilites

10:00-10:30—DOE AST-4 Management Structure—R. Weiner
- —Organizational Concept
- —Assignment and Responsibilities

10:30-11:00—Test Activities—F. Neilsen
- —Sequence of Events
- —Test Assumptions
- —Timetables for Cycles I and II
- —Assessment and Final Report

11:00-11:45—Overview of Role of States and Industry Players—R. Winkler
- —Relationship of States to international players
- —Role of NDERs
- —Participation of public interest groups
- —Role of oil consumers
- —Role of the Rand Corporation

11:45-1:15—Lunch Break
1:15-3:00—State and Industry Participation—RAND Corp.
- —Lessons learned from AST-3
- —Adaption of disruption scenarios for states
- —Timetables and events for states and industry
- —Use of computer simulations and analyses
- —State actions and responses
- —Test Communications-DIALCOM
- —Federal/state/industry coordination
- —Participation by public interest groups (e.g., NGA, NCSL, NACo)
- —Role of oil consumers

3:00-3:15—Break
3:15-4:15—Discussion of State and industry players' expectations and concerns

Note.—All time periods include Qs & AS and discussion.

[FR Doc. 83-9648 Filed 4-11-83; 11:53 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59117B; TSH-FRL 2344-5]

Substituted Methoxy and Ethoxy Esters of Propanamine; Denial of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's denial of TM-83-23, an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA).

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore C. Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, DC. 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test

marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has not been able to determine that test marketing of the new chemical substance described below, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. The submitter also filed a PMN for this same substance at the same time as the submission of the test market exemption application (TMEA). Moreover, the Agency is not convinced that this is a true TMEA due to the large number of customers. While the Office of Toxic Substances (OTS) has no policy restricting the number of customers for a TMEA, we are currently examining the issue to determine whether an application with such a large number of customers should be declared invalid. Therefore, based on all these factors the application is denied.

TM 83-23.

Date of Receipt: February 4, 1983.

Notice of Receipt: February 18, 1983 (48 FR 7298).

Applicant: Claimed as Confidential Business Information.

Chemical: Substituted methoxy and ethoxy esters of propanamine.

Use: Industrial curing agent.

Production Volume: 400 kg.

Number of Customers: 150.

Worker Exposure: The potential for inhalation exposure during manufacturing and processing operations appears to exist. During manufacturing and processing operations the following worker exposures are expected:

Manufacturing—40 persons, for less than 8 hours/day, for less than 10 days.

Processing (customer evaluation)—300 persons, for less than 8 hours/day, for less than 10 days.

Test Marketing Period: 45 days.

Risk Assessment: Based on test data on a close analog, EPA believes that the TME substance has the potential to cause chronic and subchronic effects (i.e. capillary hemorrhage, chronic bronchitis and bronchikutus). EPA is unable to determine, in the absence of chronic and subchronic test data on the test market substance, whether expected worker exposure levels are low enough to ensure that there will be no unreasonable risks to workers during manufacture and processing operations during the test marketing of this substance.

Public Comments: None.

Dated: April 15, 1983.

Marcia E. Williams,

Acting Office Director, Office of Toxic Substances.

[FR Doc. 83-9631 Filed 4-11-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-344, File No. BPCT-820622KE and MM Docket No. 83-345, File No. BPCT-821222]

James A. Bender and Owen Broadcasting Enterprises; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: March 31, 1983.

Released: April 7, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of James A. Bender (Bender) and Owen Broadcasting Enterprises (Owen) for a new commercial television station to operate on Channel 17, Missoula, Montana.

Owen Broadcasting Enterprises

2. Section 73.682(a)(15) of the Commission's Rules states that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. Owen's aural power is 1% of the visual. The applicant will be required to correct this situation by an appropriate amendment within 20 days of the release of this Order.

3. Owen indicates in Section V-C, Item 7, FCC Form 301, that it will use electrical and mechanical beam tilt. Section 73.685(e) and (f) of the Commission's Rules requires that information be submitted to verify the nature of the proposed electrical and mechanical beam tilt. Owen did not submit this information. Accordingly, applicant will be required to submit an appropriate engineering amendment within 20 days of the release of this Order.

4. Section II, Page 2, FCC Form 301, requires that if the applicant is a corporation, the names, addresses and offices held by each officer must be listed. Owen's application shows that Dennis Owen is the sole stockholder, but the office or offices which he holds, if any, have not been disclosed. No other names are listed as officers. The laws of the State of Tennessee,[1] however, appear to require that a corporation have at least two officers (Tenn. Code Ann. § 48-811). Furthermore § 73.3514(a) requires applicants to provide all information called for by FCC Form 301, unless the required information is inapplicable. Accordingly, appropriate issues will be specified to determine the identity and qualifications of the corporate officers and to examine Owen Broadcasting's compliance with § 73.3514(a).

5. Section II, page 4, Question 9, FCC Form 301, inquires whether there are any documents, instruments, contracts or understandings relating to ownership or future ownership rights (including, but not limited to, non-voting stock interests, beneficial stock ownership interests, options, warrants, debentures). Owen answered "yes" to Question 9; however, the particulars were not submitted. Owen will be required to submit the particulars to the presiding Administrative Law Judge within 20 days of the date of the release of this Order.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. 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, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Owen Broadcasting Enterprises:

a. The number, identity and legal qualifications of the officers of Owen Broadcasting Enterprises;

b. Whether, in light of the evidence adduced pursuant to the foregoing issue, the applicant complied with § 73.3514(a) of the Commission's Rules; and

c. In light of the evidence adduced pursuant to the foregoing issues, the

[1] The application form no longer requires a corporate applicant to disclose its state of incorporation. Because Dennis Owen lives in Tennessee, it has been assumed that the corporation is a Tennessee corporation.

effect of any omissions on the applicant's basic of comparative qualifications.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That Owen shall submit, pursuant to § 73.682(a)(15) of the Commission's Rules, to the presiding Administrative Law Judge within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the aural effective radiated power.

9. It is further ordered, That, Owen shall submit, pursuant to § 73.685 (e) and (f) of the Commission's Rules, an appropriate engineering amendment to verify the nature of the proposed electrical and mechanical beam tilt within 20 days after the date of release of this Order to the presiding Administrative Law Judge.

10. It is furthur ordered, That Owen Broadcasting Enterprises shall submit the particulars for answering "yes" to Section II, Question 9, FCC Form 301, to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

11. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to Section 311(A)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-9445 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-338, File No. BPCT-820928KF; etc.]

Cape Coral Broadcast Production and Management Corp., et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: March 31, 1983.

Released: April 7, 1983.

In re Applications of Cape Coral Broadcast Production and Management Corporation, Cape Coral, Florida, MM Docket No. 83-338, File No. BPCT-820928KF; Ronald H. Kays, and Peter H. K. Tan, et. al. d/b/a, Florida Family Broadcasting, Ltd., Cape Coral, Florida, MM Docket No. 83-339, File No. BPCT-821103KG; South Jersey Radio, Inc., Cape Coral, Florida, MM Docket No. 83-340, File No. BPCT-821124KF; Harry C. Powell, Jr. d/b/a/, Powell Broadcasting Company, Cape Coral, Florida, MM Docket No. 83-341, File No. BPCT-821124KG; Coastal Telecasting Corporation, Cape Coral, Florida, MM Docket No. 83-342, File No. BPCT-821126KE; and Florida Metro Broadcasting, Inc., Cape Coral, Florida, MM Docket No. 83-343, File No. BPCT-821126KF; For Construction Permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 36, Cape Coral, Florida.[1]

2. No determination has been made that the tower heights and locations proposed by Cape Coral Broadcast Production and Management Corporation, South Jersey Radio, Inc. and Coastal Telecasting Corporation would not each constitute a hazard to air naviation. An appropriate issue will be specified.[2]

3. The effective radiated visual power, antenna height above average terrain and other technical data submitted by Powell Broadcasting Co. indicate that there would be a significant difference in the size of the area and population that it proposes to serve and the size of the areas and populations that the other applicants propose to serve. Consequently, for the purposes of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

Cape Coral Broadcast Production and Management Corporation (CCB)

4. CCB's application indicates that construction of the station would constitute a major environmental action within the meaning of Section 1.1305 of the Commission's Rules. The applicant, however, has not submitted an environmental narrative statement which contains all of the information required by Section 1.1311 of the Rules. CCB will, therefore, be required to submit to the presiding Administrative Law Judge, within 20 days of the date of release of this Order, an environmental narrative statement which complies with Section 1.1311 of the Commission's Rules.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. 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, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Cape Coral Broadcast Production and Management Corporation, South Jersey Radio, Inc. and Coastal Telecasting Corporation, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That, Cape Coral Broadcast Production and Management Corporation shall submit

[1] South Jersey Radio, Inc. filed a "Petition for Leave to Amend" on March 18, 1983, accompanied by an amendment updating information concerning a pending application at Brunswick, Georgia. Inasmuch as the information is required by § 1.65 of the Commission's Rules, the petition is hereby granted and the amendment is accepted.

[2] The Commission is not in receipt of the Federal Aviation Administration's studies for Cape Coral Broadcast's tower and South Jersey Radio, Inc.'s tower.

an environmental narrative statement which contains the information required by § 1.1311 of the Rules to the presiding Administrative Law Judge within 20 days after this Order is released.

8. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

9. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-9448 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-316, File No. 26086-CL-P-(9)-82]

Cellular Communications of Cincinnati, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Cellular Communications of Cincinnati, Inc., Cellular Mobile Systems of Ohio, Inc., Metro Mobile Cts, Richard L. Plessinger d.b.a. Miami Valley Radiotelephone, Midwest Mobilephone Corporation, CC Docket No. 83-316, File No. 26086-CL-P-(9)-82; File No. 26180-CL-P-(6)-82; File No. 26068-CL-P-(7)-82; File No. 26114-CL-P-(4)-82; File No. 26044-CL-P-(7)-82; For a construction permit to establish a cellular system to operate on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Cincinnati, Ohio-Kentucky-Indiana, Standard Metropolitan Statistical Area.

Memorandum Opinion and Order Designating Applications for Hearing

Adopted March 24, 1983.

Released April 1, 1983.

1. Presently before the Chief, Common Carrier Bureau, acting under delegated authority, are: (a) The captioned applications of Cellular Communications of Cincinnati, Inc. (CCCI), Cellular Mobile Systems of Ohio, Inc. (CMS), Metro Mobile CTS (Metro Mobile), Richard L. Plessinger d/b/a/ Miami Valley Radiotelephone (Miami Valley) and Midwest Mobilephone Corporation (Midwest) to construct cellular radio systems to serve the Cincinnati, OH-KY-IN, Standard Metropolitan Statistical Area (SMSA); and (b) various motions, petitions, pleadings and amendments related to the applications.[1]

2. As discussed below, we find that the petitions fail to raise any substantial and material issues requiring designation for hearing. These applications are electrically mutually exclusive and, accordingly, we are designating them for a comparative hearing in accordance with the Commission's special hearing procedures for cellular radio applications announced in the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 571 (1982). We are also requiring the applications to be amended, as set forth below.

CCCI Application

3. *Financial Qualifications.* Midwest, Metro Mobile and CMS filed petitions to deny CCCI's application. All the petitioners argue that CCCI is not financially qualified. In the application, CCCI estimates its construction costs to be $4,553,000, and its first year operating expenses, excluding interest, to be an additional $1,011,000, totaling $5,564,000. To meet these costs, CCCI relies upon one or more of the following (a) private equity funds from Western Union Telegraph Co. (WJ) and four other investors for approximately $5 million; (b) a letter of credit from Citibank, N.A. for $7,500,000; (c) an equipment financing option from General Electric Credit Corporation (GECC); and (d) an offer by Shearson/American Express (Shearson) to secure sufficient funds to finance the entire project.

4. The petitioners argue that CCCI has underestimated its cost; that the equity investments do not provide adequate assurance that the funds will be available; that Citibank's letter of credit and GECC's equipment financing option do not provide sufficient detail; and that the Shearson letter is a mere offer to raise capital. CMS also argues that CCCI failed to provide sufficient detail concerning its preoperating and first year operating expenses.

5. CCCI responds that it did not include interest expense in its cost projections because the precise mix of equity and debt of its financing is uncertain at this time. In any event, CCCI argues that it has demonstrated more than sufficient funds to cover its financing costs including whatever interest expense may accrue. With respect to its proposed sources of funds, CCCI argues that the petitions point out only technical flaws in its financial arrangements and that its financial showing is unassailable on the merits. CCCI argues that notwithstanding the fact that the Citibank letter did not specify the particular terms of the arrangement, the Citibank letter provides reasonable assurance of the funds, based on pertinent judicial and Commission precedent. CCCI also contends that its private equity placement should be credited for $5 million because each shareholder specified the amount of the commitment and has established its ability to meet the commitment. CCCI further responds that the Shearson letter provides reasonable assurance of those funds because Shearson provided its expert opinion that the necessary funds will be available and because Shearson offered to manage the underwriting.

6. After carefully reviewing the CCCI application and the related pleadings, we conclude that CCCI is financially qualified to construct and operate the proposed facility. CCCI proposes four sources of funds: private equity, Shearson offering, Citibank loan, and GECC equipment lease. Of those sources, we find that CCCI has demonstrated reasonable assurance that the private equity financing and GECC equipment lease will be available. These sums are sufficient to cover the projected construction and operation costs.[2]

7. *Private Equity Funding.* CCCI projects that it will be able to raise approximately $5 million in additional shareholder equity from five investors that are currently investors in its parent, Cellular Communications, Inc. Western Union (WU) will contribute $1.7 million.

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[1] Two applications were also filed requesting the wireline allocation (frequency block B) in this SMSA. The two applicants have filed a settlement agreement for this SMSA. *See* Public Notice, Mimeo 1437, Report No. CL-11, released December 17, 1982. We will consider the wireline allocation in a separate order.

[2] We are not persuaded by Midwest's argument that CCCI's costs are understated. Midwest has not demonstrated that CCCI's costs are unreasonable on their face. *See* Advanced Mobile Phone Service, Inc., *et al.* (*Chicago Order*), 91 FCC 2d 512, 518 (1982).

WU plans to finance its commitment by a loan from Manufacturers Hanover Trust Company and provides a letter from the bank confirming this commitment. The interest rate (prime), and repayment terms are contained in the letter. No collateral is anticipated. Under applicable precedent, this letter is acceptable as reasonable assurance of these funds. *See Multi-State Communications, Inc. v. FCC (Multi-State), 590 F.2d 1117 (D.C. Cir. 1978), cert. denied,* 440 U.S. 959 (1979); *See also Peoples Broadcasting Corporation, et al. (Peoples),* 68 FCC 2d 1569, 1574–75 (1978); *Merrimack Valley Broadcasting, Inc., (Merrimack),* 82 FCC 2d 166, 174–75 (1980). Sidney R Knafel will contribute $317,000 and Susan B. Knafel as custodian for Douglas and Andrew G. Knafel will contribute $318,000. These commitments are both financed by Citibank, N.A., and are in accordance with *Peoples, supra,* and *Merrimack, supra.* Alan Patricof Associates, Inc. (APA) will contribute $1,968,000. APA is a venture capital firm that has been making venture capital investments since 1969. Currently, APA manages two pools of capital: Excelsior Fund and 53rd Street Ventures, Inc. Excelsior Fund is a $25,650,000 venture capital firm; 53rd Street is a Small Business Investment Company with net total assets of $3.0 million. Since the assets of these funds are vastly in excess of the amount committed, we find that CCCI has adequately demonstrated the availability of this equity funding. *See Tel-Page Corporation of Wisconsin (Tel-Page),* 74 FCC 2d 370, 374 (1979), and the cases cited therein. Finally, Venrock Associates will contribute approximately $633,500. Venrock Associates is a venture capital limited partnership formed by the Rockefeller Family, with funds of $20 million available for investment. CCCI provides a letter from Chase Manhattan Bank, N.A., the custodian for this fund, verifying that the $20 million is comprised of Marketable Securities for which there is a ready market. Under applicable precedent, this demonstration is acceptable as reasonable assurance of these funds. *See Tel-Page, supra; Merimack, supra; Peoples, supra.* In summary, CCCI has adequately demonstrated that it will have approximately $5 million available from its private equity funding.

8. *Shearson Offering.* CCCI provides a letter from Shearson which indicates that it will undertable a program to secure $7,500,000 for CCCI's Cincinnati cellular system. The letter indicates that based on its past business dealings with CCCI's principals and its experience in raising capital for public and private firms, Shearson believes that "funds for financing the CCCI system will be available on reasonable and equitable terms." After carefully reviewing the material provided, we cannot credit CCCI with the Shearson Offering. The Shearson letter does not provide any terms or details of the offering, nor does it indicate whether the financing will be a public or private offer, or will be debt or equity. Further, the letter fails to state whether Shearson has any specific experience managing underwritings for CCCI or its principals. Lacking these particulars, the letter does not meet the standards established by the Commission in the *Chicago Order, supra* note 2, at para. 10–12. Accordingly, we find that CCCI did not submit sufficient information for us to determine whether this letter provides reasonable assurance of the funds.

9. *Citibank letter.* CCCI provides a letter from Citibank extending credit for $7,500,000 provided that all Citibank credit criteria are met. The letter indicates that the pricing, the terms, and the amortization schedule will be contingent upon the credit conditions prevailing at the time of the commitment, and that a security interest of the assets of the company will be required. After reviewing the letter of credit from Citibank we conclude that this letter does not provide reasonable assurance of the funds. Although exact details such as interest rates and payment terms are not absolutely required, the applicant must submit sufficient information for the Commission to make its reasonable assurance determination. *See Multi-State, supra.* CCCI admits that the Citibank letter does not specify any of the essential terms of the loan, with the exception of the collateral requirements. Under these circumstances, we cannot conclude that the Citibank loan provides reasonable assurance. *See Advanced Mobile Phone Service, Inc., et al. (Philadelphia Order),* CC Mimeo 1882, released January 21, 1983, at para. 6.[3]

10. *GE Equipment Lease.* CCCI has also obtained an equipment financing lease commitment from GECC, whereby GECC will lease to CCCI the necessary base station and switching equipment for the Cincinnati cellular system for five years, with an option to purchase the equipment at the end of the five year lease term. According to a letter from GECC, which was contained in Exhibit S–11 of the application, the exact terms of the lease are contingent on the credit conditions prevailing at the time of the lease; however, the parties anticipate that the monthly "rental" fee will be $81,638, and that GECC will require a security interest in the assets of CCCI as collateral for the lease. The effect of this transaction on CCCI's cost projections will be to reduce CCCI's capital investment for equipment from $4,553,000 to $612,000 and raise its monthly expenses by $81,638 per month for 24 months.[4] Thus, assuming that CCCI chooses to rely on the GECC equipment financing, it will incur equipment expenses of $1,959,312, in addition to the $1,011,000 in expenses that it has already projected, and $612,000 for other construction costs. CCCI will need, therefore, an estimated $3,582,312 to construct and operate its proposed Cincinnati system.

11. After carefully reviewing the material presented, we conclude that CCCI is financially qualified. The GCCC letter contains sufficient detail to provide reasonable assurance of this equipment financing transaction. The interest rate, repayment terms, and collateral requirements are provided in this letter. CCCI has also demonstrated that it will have approximately $5 million available from its private equity funding to meet the remaining projected expenses of $3,582,312. Accordingly, we conclude that CCCI has sufficient resources available to construct and operate its proposed Cincinnati system.

12. *Extension of OGSA.* CCCI's Cellular Geographic Service Area (OGSA) and several of its 39 dBu contours extend beyond the Cincinnati SMSA. Midwest argues that these extensions are more than *de minimis* and, thus, violate the cellular rules. CCCI responds that its extensions were necessary to cover the northern portion of the Cincinnati SMSA, and it is using directionalized antennas to minimize the extensions.

13. We have carefully reviewed the maps submitted with the application, and we conclude that CCCI's OGSA extensions are *de minimis.* Four of CCCI's sites extend unto the adjacent

[3] CCCI goes to great lengths in asserting that the instant situation is very similar to the facts in *Multi-State.* We disagree. In *Multi-State,* the bank letter contained the general terms of the loan. Although the *Multi-State* letter indicated that these terms were tentative, these terms were explained in great detail. In the instant situation, no terms whatsoever are provided.

[4] We are including 24 months of equipment lease expenses to cover both the period of construction (assumed to be one year) and CCCI's first year of operation. We have not considered the equipment lease expenses after the first year of operation based on our prior decision in Advanced Mobile Phone Service, Inc. *et al.* (Buffalo Order), CC Mimeo 1320, released December 14, 1982, at paras. 15–18, in which the Bureau concluded that it would not be necessary to inquire whether a cellular applicant will be able to operate beyond one year.

SMSA by less than 5%. The Colemain Township site extends 6%, the Florence site extends 8.5%, and Logan Township extends 10% into the adjacent SMSA. These extensions do not go into another central SMSA. While several of the contours do extend into the Hamilton-Middleton SMSA,[5] neither of these cities, itself, is covered by these extensions. Accordingly, it does not appear that CCCI's extensions were designed to cover this market area. Based on the small percentage of overlap and the absence of any evidence of intent to serve a population center in another SMSA, we conclude that CCCI's proposal fully complies with Section 22.903 of the rules. *See Philadelphia Order, supra.*[6]

14. *Eligibility.* Midwest argues that CCCI is ineligible to hold a license for the nonwireline frequencies because it is partially owned by Western Union, which is a specialized common carrier. Midwest contends that specialized common carriers should be considered wireline carriers. This argument is without merit. In *Xerox Corp.*, 90 FCC 2d 547, 550–554 (1982), the Commission examined this issue in connection with a proposed transfer of control of mobile radio facilities of a nonwireline carrier to a specialized common carrier and determined that specialized common carriers are nonwireline carriers.

See also Cellular Mobile Systems of Indiana, Inc., et al. (Indianapolis and Milwaukee Order), FCC 83–70, released March 3, 1983.[7] We conclude therefore that WU's ownership interest in CCCI does not make CCCI ineligible for a nonwireline frequency.[8]

15. *Rates.* Midwest argues that CCCI's proposed rates are non-compensatory. Midwest bases this argument on its earlier contention that CCCI has underestimated its construction and operating costs. We find this argument to be without merit. The rates charged to the public are a state matter, rather than within the jurisdiction of the Commission when the service is intrastate or falls within the local exchange service exemption of Section 221(b) of the Communications Act of 1934, as amended. *See generally Morrison Radio Relay Corp.*, 31 FCC 2d 612 (1971). In addition, as expressed earlier, Midwest has not demonstrated that CCCI's costs are unreasonable on their face. *See* note 2, *supra.*[9]

Metro Mobile Application

16. CMS, Midwest and CCCI filed petitions against the Metro Mobile application. The petitioners argue that Metro Mobile has not demonstrated site availability and is not financially qualified. Midwest also argues that Metro Mobile's CGSA improperly extends beyond the Cincinnati SMSA.

CMS claims that Metro Mobile has not provided its criteria for system expansion and criticizes Metro Mobile's maintenance proposals.[10]

17. *Site Availability.* We find that Metro Mobile has adequately demonstrated site availability. An applicant need not have a binding agreement or absolute assurance of the availability of a proposed site, but rather must show that it has obtained reasonable assurance that its proposed site will be available. *See Alabama Citizens for Responsive Public Television, Inc. (Alabama Citzens),* 59 FCC 2d 1 (1976). In the application Metro Mobile indicates that it has received a commitment to lease or to negotiate a lease for each of its cell sites. On July 29, 1982, Metro Mobile submitted an amendment containing written evidence of site availability.[11] With the exception of the letter for Site 3, for which a new site was negotiated after the filing date because the original site was lost,[12] each of these letters was executed prior to the June 7, 1982 filing date. Further, none of the petitioners demonstrated that any of Metro Mobile's sites is not available. Based on these circumstances, we find no reason to designate a site availability issue.

18. *Financial Qualifications.* Metro Mobile estimates its construction costs and first year operating expenses for Cincinnati to be $8,355,682. Metro Mobile's aggregate construction costs and operating expenses for its nine top-30 applications (Cincinnati, Miami, Minneapolis, San Diego, Phoenix, Tampa, Denver, Kansas City and Houston) are $99,264,429. To finance these commitments, Metro Mobile relies upon a loan for $115 million from the First National Bank of Chicago (First National). The Bureau examined this financing arrangement in *Cellcom, Inc. et al.*, (*Minneapolis Order*), CC Mimeo 1573, released December 30, 1982, and found that Metro Mobile had demonstrated reasonable assurance of availability of the First National loan to finance its nine cellular applications including the Cincinnati proposal. Accordingly, we find Metro Mobile to be financially qualified to construct and operate its Cincinnati proposal.[13]

19. *CGSA Extension.* Metro Mobile's CGSA extends into the adjacent Hamilton-Middletown, Ohio, SMSA. Midwest alleges that Metro Mobile has not demonstrated that this extension is *de minimis.* Metro Mobile responded that its intrusion into Hamilton is so slight that it is *de minimis per se* and that it has used a highly directionalized antenna aimed away from Hamilton to minimize any interference potential. The staff has evaluated Metro Mobile's engineering analysis and has found that this extension covers less than one square mile. Clearly, this extension.

[5] Hamilton-Middleton is a secondary SMSA.

[6] Midwest also contends that CCCI has proposed an insufficient number of channels for the proposed grade of service. This allegation has been adequately answered by CCCI.

[7] WU also engages in message telegraph service. However, in the cellular allocation such carriers are considered nonwireline carriers. *Compare* §§ 22.903(b) and 22.501(c) with § 22.501 (i) and (k). *See* also Xerox Corp., *supra*, at 554.

[8] Midwest also argues that CCCI is not legally qualified because it is not yet registred to do business in Indiana, Kentucky or Ohio, and because CCCI committed an error on its application concerning its corporate structure. We will not designate issues concerning these matters based upon the allegations submitted here. CCCI's application error was insubstantial and obvious on its face. Any corporate law problems that were raised are readily correctable. If these states take action or determine that state law has been violated, the Commission will review the relevance of that action at an appropriate time. *See* Advanced Mobile Phone Service, Inc., *et al. (New York City Order),* CC Mimeo 2418, released February 13, 1982, at para. 33.

[9] Further, assuming identical usage by subscribers, CCCI's proposed monthly charges are *higher* then those of Midwest.

[10] CCCI also criticizes all of the applicants, including Metro Mobile, for failure to file a separate Form 401 application for each cell site and for failure to use a map with the proper scale [1:250,000]. These arguments are frivolous and insubstantial. These applications contain all essential information for all cell sites. Further, to avoid unnecessary duplication, common sense dictates that information common to all locations may be filed on one Form 401 that contains the specific information for each site. In addition, we have examined each of the applicants' maps and we find them to be in the proper scale. These arguments raised by CCCI are trivial and should not have been brought before the Commission.

[11] This amendment was accepted as minor because it did not modify Metro Mobile's proposal, but rather supplied information explaining material already contained in the application.

[12] CCCI also criticizes Metro Mobile's demonstration of site availability because of certain correspondence with the Commission in which Metro Mobile mistakenly identified its lost site as "site 12", rather than "site 3". This argument is frivolous. Metro Mobile's error appears to be typographical in nature, and in no way reflects on Mobile Metro's demonstration of site availability or its technical qualifications. Further, Metro Mobile claims that this error had been clarified prior to the filing of CCCI's protest.

[13] CCCI has also filed a Motion to Strike portions of the reply pleadings of all of the applicants, including Metro Mobile, dealing with financial qualifications. CCCI requests that we not consider arguments contained in the replies which refer to documents, such as additional bank letters, which were attached to these pleadings. We reject this argument. These documents merely provide additional details concerning the financial arrangements of the applicants and do not provide any new sources of funds or modify the financial plans as contained in the application.

which Metro Mobile has justified on a engineering basis, is *de minimis.*

20. *Other Matters.* CMS argues that Metro Mobile has failed to provide a proper showing of its projected method of system expansion, and questions whether Metro Mobile's proposed system will be able to provide adequate assurance of reliable and continuing service. We are not persuaded by these arguments. Metro Mobile's application adequately explains its proposed method for system expansion and the grade of service criteria to be applied (Engineering Exhibits VIII thru X). We find this showing meets the requirements of § 22.913(a)(4) of the rules. We further find that Metro Mobile's service and maintenance proposals meet the basic requirements of our rules. *See* Legal Exhibits 7 and 8 of Metro Mobile's application. These proposals however, may be examined in the comparative portion of this proceeding to the extent they are relevant to the issues designated in para 48, *infra.* See *Minneapolis Order, supra,* at paras. 13–14.

Midwest Application

21. *Financial Qualifications.* CMS, CCCI and Metro Mobile filed petitions against the Midwest application. All petitioners argue that Midwest is not financially qualified. In the application, Midwest estimates the cost to construct and operate the Cincinnati facility to be $5,104,550. Midwest has also applied for cellular service in Indianapolis. Midwest estimates the total costs for its two cellular systems to be $10,073,000.[14] To meet these anticipated costs, Midwest relies upon: (a) a private equity commitment of $4 million ($2.4 million allocated to Cincinnati), from Burr, Egan, Deleage & Company (Burr); (b) a bank loan for $35.5 million ($2 million allocated to Cincinnati) from American Fletcher National Bank (American Fletcher); and (c) first-year revenues of $2,573,000 ($1,227,000 from Cincinnati).

22. The petitioners argue that Midwest has understated its reoperating expenses; that Midwest has overestimated its projected revenues; that the Burr commitment is inconsistent and confusing; that it is not clear whether Burr has sufficient resources to meet its equity commitment; and that it is questionable whether Midwest will be able to meet the conditions contained in the bank letter from American Fletcher.

23. In its reply, Midwest admits that its estimate of expenses should be raised by $403,900 to account for additional preoperating expenses. Midwest argues that its revenue projections should be considered because they are grounded on the extensive experience of its financial advisers and are well-supported; that Burr is one of the nation's largest venture capital firms; and that Burr's assets are vastly in excess of the amount committed. Finally, Midwest explains in detail its various financial transactions with Burr and provides a letter from American Fletcher further explaining its conditions for the bank loan.

24. After carefully reviewing Midwest's financial showing, we conclude that Midwest is financially qualified to construct and operate the proposed facility. First, Midwest has adequately demonstrated reasonable assurance that the loan from American Fletcher will be available. The bank letter, which was provided in Exhibit 7, Attachment E of the application, contains all essential terms, including the interest rate (1¼% above prime), the repayment terms, and the collateral. In addition, Midwest has provided a second bank letter explaining in detail the conditions attached to the loan. Under applicable precedent, this letter is acceptable as reasonable assurance that this bank loan will be available to Midwest. *See Multi-State, supra.*

25. We also conclude that Midwest has adequately demonstrated that the Burr equity commitment will be available. Burr has indicated that it will provide $4 million of equity financing (with $2.4 million allocated to Cincinnati) and has outlined the details and conditions of this funding. The petitioners question whether Burr has sufficient net liquid assets available to meet its commitment. We reject this argument. As explained in para. 7, *supra,* it is well established that a stock subscriber is not required to submit a detailed showing of the liquidity of its assets where those assets are vastly in excess of the amount commited to the applicant. *See Tele-Page, supra.* Burr is a Boston, Massachusetts, venture captial firm that is one of the country's largest venture capital firms. Burr manages six different investment pools, which are valued at over $85 million in total assets and over $60 million in net liquid assets. Thus is is not necessary for Burr to submit a detailed showing demonstrating that it wil be able to meet its $4 million commitment to Midwest. In addition, Midwest has clarified the details of its equity arrangement with Burr. Accordingly, we conclude that Midwest has adequately demonstrated the availability of its equity funding.

26. To summarize, Midwest's cost estimates as revised, indicate it will need $5,508,450 to cover the construction, preoperational, and first-year operating expenses for Cincinnati. However, Midwest has demonstrated funds available of only $4.4 million, comprised of $2.4 million from Burr and $2.0 million from American Fletcher. Thus, Midwest has a shortfall of funds of approximately $1.1 million for Cincinnati. Nonetheless, as discussed in note 12, *supra,* Midwest has entered into a settlement in Indianapolis whereby Midwest will only be required to contribute $1,666,667. It is reasonable to assume that Midwest will have $1.5 million excess of funds from its bank loan and equity funding that were originally intended to finance Midwest's Indianapolis system but will not be necessary. Because the letters from American Fletcher and Burr are framed in terms of Midwest's overall cellular commitments allocated between two proposals, rather than being entirely separate commitments for each city, we conclude that Midwest will be able to obtain sufficient funds to meet its commitments for Cincinnati.[15] Accordingly, we will not designate a financial qualifications issue. However, we direct Midwest to file an amendment with the Administrative Law Judge (ALJ) to confirm that funds from American Fletcher and Burr wil be available for Midwest's Cincinnati system. In the event that such an amendment is not forthcoming, the ALJ is empowered to add a financial qualifications issue.

27. *Service Contour Extensions.* Metro Mobile argues that Midwest's application violates the cellular rules because several of Midwest's service contours extend beyond its proposed OGSA.[16] [17] Midwest responds that its

[14] Subsequent to the filing of the applications for the top-30 markets, the nonwireline applicants in Indianapolis proposed a settlement whereby Cellular Mobile Systems of Indiana, Inc. (CMSI), Westel-Indianapolis Company and Midwest entered into an equal partnership that will prosecute the CMSI application; the Midwest and Westel applications will be withdrawn. The partnership estimates its construction and operating expenses to be $5 million. According to the partnership agreement, Midwest will be required to contribute up to $1,666,667. Consequently, Midwest's financial requirement for its two proposals is $6.7 million, rather than $10 million.

[15] Midwest also relies on first-year revenues to provide additional funds for its cellular proposals. The petitioners dispute the availability of these funds. Because we have found that Midwest has sufficient resources without this revenue projection, we do not reach this question.

[16] Midwest has defined its OGSA to be coterminous with the Cincinnati SMSA.

[17] Metro Mobile argues that Midwest is violating § 22.903(a) and (d) by locating its service contours beyond its OGSA. Neither of these rule sections applies. Section 22.903(a) prohibits OGSA extensions beyond the boundaries of the SMSA except where the extension is *de minimis* and does not go into another central SMSA. While ths sectior

service contour extensions were necessary in order to fully cover the Cincinnati SMSA; that it is not claiming frequency protection or comparative credit for areas outside the SMSA; and that it is prepared to coordinate the use of frequencies with adjacent cellular systems.

28. After reviewing the maps submitted with the application as well as Midwest's explanation for its system design, we conclude that Midwest's proposal is acceptable. Midwest's extensions are as follows: Site 1 (8%); Site 2 (14%); Site 3 (7%); Site 4 (25%); and Site 5 (9%).[18] Sites 2, 3, and 4 extend into non-SMSA areas, and Sites 1 and 5 extend into the Hamilton-Middleton secondary SMSA; however, neither city itself is covered by these cells. Based on an analysis of these factors, it appears that Midwest's extensions were not designed to serve a population center in another SMSA outside the Cincinnati SMSA and, thus, are permissible. With respect to Sites 1, 3 and 5, this conclusion is based on the small percentage of overlap and the fact that these extensions will not cover either Hamilton-Middletown or the other major population centers in this general area. We are allowing the extensions for Sites 2 and 4 because these cell sites extend into a non-SMSA area and the overlap is due to the irregular political boundary line. *See New York City Order, supra,* at para. 17. In addition, Midwest has agreed to coordinate with any adjacent cellular system. Consequently, it is unlikely that these extensions will cause harmful electrical interference or a mutually exclusive situation with adjacent cellular licensees, if there ar any. Accordingly, we will not require Midwest to amend its application. However, Midwest is reminded that areas outside the SMSA are irrelevant for comparative purposes and may not be served in a manner that causes interference to the services of the ultimate licensees in these areas. *See Indianapolis and Milwaukee Order, supra,* at n.4.

29. *Site Availability.* CCCI argues that Midwest failed to demonstrate site availability. Without citing authority, CCCI argues that in order to demonstrate site availability, an applicant must submit a written lease or option to lease. This argument is contrary to established case law. As explained in para. 17, *supra,* an applicant need not have a binding agreement or absolute assurance of the availability of a proposed site, but rather must show that it has obtained reasonable assurance that its proposed site will be available. *Alabama Citizens, supra.* Midwest's submission squarely meets this test.

Miami Valley Application

30. CMS, CCCI, Midwest and Metro Mobile filed petitions against the Miami Valley application. All petitioners argue that Miami Valley is not financially qualified. In addition, the petitioners raise various technical issues.

31. *Financial Qualifications.* In Exhibit 8 of the application, Miami Valley estimates that its proposed system will cost $1,785,300 to construct and $180,000 to operate for one year, for a total of $1,965,300. To finance this proposal, Miami Valley relies upon a bank loan of $3 million from Second National Bank of Hamilton, Ohio (Second National) and its own financial resources, as well as those of a sister corporation, Total Communications, Inc. (TCI).

32. The petitioners argue that the estimated costs are grossly understated and that the letter of credit should not be considered because it fails to outline the essential details of the loan. The petitioners also attack Miami Valley's explanation of its net liquid assets.

33. In its response to the petitions, Miami Valley raises its estimate of constructions costs of $1,832,300 and its estimated expenses to $544,600. Miami argues that these increases are the result of inadvertent errors and unexpected changes in prices and utility rates and, in any event, are easily covered by its bank loan. Miami also argues that certain expenses were not considered because they will be absorbed by Miami Valley's existing operations. Nevertheless, Miami developed a pro-rated estimate of these expenses of $38,600. Miami Valley further contends that its bank letter is sufficient to demonstrate reasonable assurance of the availability of the $3 million loan. However, Miami Valley provides a second letter from Second National which explains in detail the anticipated terms of the loan. Miami Valley also submits a schedule of TCI's marketable securities. Based on the foregoing, Miami Valley claims to have $4,618,280 available to meet anticiapted costs and expenses of $2,415,500.

34. After carefully reviewing Miami Valley's financial showing and the related pleadings, we find Miami Valley to be financially qualified to construct and operate its proposed cellular system. Miami Valley provides a bank letter from Second National indicating extending a $3 million line of credit. This showing has been supplemented by a second letter from Second National which explains that the term of the loan is five years, it has an interest rate of 2% above the prime rate, and it contains a notification provision in accordance with Section 22.917(e) of the Rules. Under applicable precedent Miami Valley has shown reasonable assurance that this loan will be available to it. *See Multi-State, supra.* This $3 million commitment, in conjunction with $1,618,278 in net liquid assets,[19] is more than sufficient resources for Miami Valley to finance its proposed cellular system. We are, however, quite concerned about the apparent unreliability of Miami Valley's initial cost projections. During the course of this proceeding Miami Valley has increased its cost projection by approximately 23%. Such an increase suggests that Miami Valley may not have been careful enough in formulating its initial financial projections. As a result, we admonish Miami Valley to be more careful in the future to ensure the accuracy of its submissions to the Commission.[20]

35. *Site Availability.* CCCI argues that Miami Valley has not demonstrated site availability. CCCI points out minor discrepancies in the leases submitted with the application, and questions whether certain conditions contained in the cases have been fulfilled. We find that Miami Valley has accounted for the minor discrepancies and has cleared up any remaining questions. Thus, under applicable precedent, Miami Valley has provided reasonable assurance demonstrating site availability. *See Alabama Citizens, supra.*

36. *Control Point Monitoring.* Miami Valley's system monitoring proposal calls for staffing its control point on a limited basis,[21] and requests a waiver to

also requires service contours to be drawn on the map of the OCSA, this requirement does not impose the restriction suggested by Metro Mobile. Likewise, Section 22.903(d) only applies when an existing cellular licensee requests authority to change an already authorized OGSA. It does not apply to applications for new cellular facilities.

[18] The percentages given represent the area outside the SMSA compared to the area of the site generating the extension.

[19] The petitioners did not dispute that Miami Valley has net liquid assets of $813,494 ($814,832 in cash less current liabilities of $1,338). While the petitioners have questioned the valuation of TCI's marketable securities, the attachment to Miami Valley's reply adequately demonstrates their liquidity.

[20] In connection with its argument concerning Miami Valley's financial qualifications, Midwest argues that TCI, rather than Miami Valley, is the real party in interest. However, Miami Valley has explained that TCI is a closely-held corporation of Richard and Clair Plessinger and has informed the Commission that the applicant is Richard L. Plessinger d/b/a Miami Valley Radiotelephone.

[21] Miami Valley proposes to staff the control point from 8:00 a.m. to 5:00 p.m., Monday through Friday.

utilize a remote alarm for the remainder of the time. The CMS petition argues that Miami Valley's proposal does not comply with Section 22.909(a)(2) regarding control point monitoring and that Miami Valley has not justified its requested waiver of the rules.[22] We agree. The Bureau examined this issue in its *Boston Order*[23] and found that waivers of the control point staffing requirements are inappropriate for cellular systems. Accordingly, Miami Valley is directed to file an amendment with the ALJ specifying full-time control point monitoring.[24]

37. *Technical Issues.* The petitioners also raise various technical issues concerning Miami Valley's proposal. CMS questions the adequacy of Miami Valley's showing dealing with the criteria for cell-splitting and its maintenance proposals. Midwest points out several inconsistencies contained in Miami Valley's technical exhibits and questions whether Miami Valley's system will be able to supply the grade of service that it is claiming. We find, however, that Miami Valley has corrected its technical discrepancies and has adequately answered the technical questions raised. In addition, technical questions, such as maintenance proposals or cell-splitting criteria, are issued to be examined in the comparative portion of this proceeding. Accordingly, we will not designate a basic qualifying issue with respect to these matters.

CMS Application

38. CCCI, Metro Mobile and Midwest filed petitions to deny the CMS application. All petitioners argue that CMS is not financially qualified and that CMS' CGSA extends beyond the SMSA more than *de minimis*. Midwest argues that CMS is proposing anti-competitive rates.[25] CCCI and Midwest also raise various technical issues.

39. *Financial Qualifications.* In the application, CMS estimates that it will need $5,467,000 in capital construction, other pre-operating and first year operating expenses for its Cincinnati cellular systems. To cover these costs, CMS relies upon a commitment from its parent, Graphic Scanning Corp. (Graphic), for $6,300,000. In *Advanced Mobile Phone Service, Inc., et al. (Chicago Order)*, FCC 82-452, released November 1, 1982, the Commission found Graphic and its subsidiaries to be financially qualified to construct and operate the 30 cellular systems it proposes, including the Cincinnati system. The petitioners have not raised any substantial and material questions with respect to CMS' Cincinnati application that were not thoroughly considered in the *Chicago Order*. Accordingly, we conclude that no further consideration of this issue is necessary.

40. *Anti-Competitive Rates.* Midwest argues that CMS' application should be dismissed because it proposes rates that are non-compensatory. Midwest acknowledges that the primary authority over rates lies in the state commissions, but argues that where, as here, the rates are unrealistically low, it is incumbent on the Commission to investigate the rates. Midwest concludes: ". . . CMS proposed these rates for the purpose of gaining an advantage in the comparative process for cellular licenses" (Petition at p. 13).

41. CMS responds that it is absurd to argue that CMS would be able to drive the other cellular carrier—the wireline carrier—out of business in the Cincinnati market by use of predatory pricing tactics, if it were selected as the nonwireline carrier. CMS denies that it proposes rates that are unrealistic to gain advantage in the comparative process. Finally, CMS explains that its rates are compensatory; that it will generate a positive cash flow in year three; and that it expects an average annual return on investment for the first five years of approximately 12%.

42. We are not persuaded by Midwest's arguments. As stated previously, when the rates charged to the public for local service are subject to state regulation, the Commission will not review the rates. *See* para. 15, *supra*. While the Commission does have an obligation to consider allegation of anticompetitive pricing, one alleging such pricing tactics bears a very heavy burden. *NR Recording and Communications, Inc.*, Mimeo 33621, Common Carrier Bureau, released July 16, 1980, *review denied*, 87 FCC 2d 469 (1981). Midwest has not met this burden. In fact, Midwest has provided nothing more than speculation to substantiate its claim that CMS' rates are unrealistically low or non-compensatory. As the Commission indicated in the *Report and Order*, rates may be a comparative, not a basic qualifying, factor. 86 FCC 2d at 503. Therefore, Midwest's allegations may be properly raised during the comparative portion of this proceeding.

43. *Extension of CGSA.* CMS' CGSA and several of its service contours extend into the adjacent Hamilton-Middletown SMSA. The petitioners claim that CMS' extensions are more than *de minimis*. CMS responds that Hamilton-Middletown is a natural market lying beyond the Cincinnati SMSA, citing the *Public Notice*, Mimeo 2973, released March 24, 1982; and that it is fully prepared to coordinate frequencies with system operators in adjacent areas to avoid interference. CMS also offers to submit an amendment which directionalizes its cells.

44. We have examined the CMS application, and we conclude that CMS' extensions beyond the Cincinnati SMSA are more than *de minimis*. Approximately 32% of Site OH21003 (Colerain Height) and 20% of Site OH21004 (Lebanon) extend into the adjacent SMSA. These extensions totally cover the cities of Hamilton and Middletown; consequently, it appears that these contours were designed to cover an entirely separate SMSA in addition to the Cincinnati SMSA, rather than being designed to serve a natural market lying just beyond the Cincinnati SMSA. Accordingly, we will require CMS to submit a conforming amendment to the ALJ within 15 days after publication of this order in the **Federal Register**, bringing its CGSA and these two 39 dBu contours into compliance with the rules. The amended cell site applications shall not cover any area not previously covered by the 39 dBu contours of the respective cells. The amendment should consider the effects, if any, that this change may have on other parts of this application. Due to this circumstance, a brief extension of time may be granted at the discretion of the ALJ.

45. *Other technical matters.* Midwest asserts that CMS's application does not adequately describe its system expansion plan. CCCI argues that CMS failed to demonstrate site availability; failed to provide adequate antenna site sketches; and failed to specify a control point. We are not persuaded by these arguments. In Exhibit III, Sections D, E and F, CMS adequately describes its system expansion plan. CMS has also

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[22] Section 22.909(a)(2) of the Rules requires each cellular system to provide operators on duty at the control point during the normal rendition of service.

[23] Advanced Mobile Phone Service, Inc. *et al. (Boston Order)*, CC Mimeo 806, released November 19, 1982.

[24] CCCI also argues that Miami Valley is attempting to locate its control point outside the SMSA in violation of Section 22.909(a)(2). Section 22.909(a)(2) does not require a control point to be located within the SMSA; rather it requires prior Commission approval before an applicant may move its control point outside its CGSA. Section 22.513 of the Rules requires a local message center or foreign exchange line for toll-free dialing for customers within the service area. Miami Valley's proposal meets this requirement.

[25] Midwest also argues that CMS is ineligible for the nonwireline frequencies because it is a specialized common carrier. This same issue was considered in connection with CCCI's application and rejected. *See* para. 14, *supra*.

demonstrated reasonable assurance of site availability. *See Alabama Citizens, supra.* Similarly, CMS' application is in accord with standard Commission practice with regard to antenna site sketches. Finally, we have reviewed CMS' application with regard to control point information. This information was not contained in the Engineering Attachment of Exhibit X, as specified in the application, but rather was contained in Exhibit IV. Accordingly, we find that CMS adequately specified its control point.

Final Observations

46. Section 309 of the Communications Act of 1934, as amended, requires that a petition to deny contain specific allegations of fact sufficient to raise a substantial and material question that a grant of the application would be inconsistent with the public interest. In contrast, the petitions filed in this proceeding, which were quite voluminous, raised for the most part minor, insubstantial issues. The petitions pointed out clerical and typographical errors which were obvious on their face and could have easily been cleared up by communicating with opposing counsel. Some petitions also raised legal arguments which were clearly contrary to established Commission precedent. Though totally without merit, these issues must be addressed by opposing counsel, and analyzed by the staff. The time and energy wasted in this process is contrary to be public interest and in large part defeats the very aim that our expedited cellular procedures seek to achieve. We cannot, and do not wish to, limit counsel's discretion in preparing and presenting their cases; however, we believe it is clear that our processes are not being well served when petitioners raise issues that do not raise substantial and material questions. We are not interested in, nor are we obligated to, consider every minor discrepancy or typographical error contained in an application unless, of course, such errors disclose a *pattern* of carelessness or inadvertence.[26] No such arguments were raised in this proceeding. We hope, therefore, that petitioners in future cellular markets are guided by better judgment coupled with more respect for Commission's processes and what we are tryping to accomplish in these cellular proceedings.

Conclusions

47. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems. As indicated in our previous discussions, several of the captioned applications do not comply with one or more of the cellular rules. In the *Chicago Order*, at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requiring these applicants to bring their applications in conformance with the rules as specified in this order. The applicants who filed mutually exclusive applications may address these amendments in their rebuttal cases. We emphasize that the amendments ordered here may not be used to give the applicants a comparative advantage in the hearing proceeding. As the Commission stated in the *Chicago Order*, in markets for which application have not yet been filed, strict conformance with the rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend nonconforming applications.

48. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Cellular Communications of Cincinnati, Inc., Cellular Mobile Systems of Ohio, Inc., Metro Mobile CTS, Richard L. Plessinger d/b/a Miami Valley Radiotelephone, and Midwest Mobilephone Corporation are designated for hearing in a consolidated proceeding upon the following issues:[27]

(a) To determine on a comparative basis the geographic area and population that each applicant proposes to serve;[28] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(2) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[29]

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); and [30]

(d) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

49. It is further ordered, That the Separated Trial Staff (the Hearing Division and other individuals specifically designed) of the Common Carrier Bureau is made a party to the proceeding.[31]

[26] *See* Beaman Advertising, Inc., 1 FCC 2d 28 (Rev. Bd. 1965). We note that even for careless errors to be considered, they must concern relevant matters of major significance. *See also* Folkways Broadcasting Company, 26 FCC 2d 175 (Rev. Bd. 1970).

[27] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). We have found applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Ohio, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Aswer Service, Inc., *et al. (ASD)*, FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. The Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Ohio, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See Chicago Order*, at n. 19.

[28] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways, and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[29] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502/03.

[30] *See* 86 FCC 2d at 503 for a discussion of the relative importance of evidence submitted under this issue.

[31] Members of the separated trial staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications

50. It is further ordered, That the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of the order in the Federal Register.

51. It is further ordered, That the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

52. It is further ordered, That exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

53. It is further ordered, That CMS and Miami Valley are directed to file the conforming amendments specified in this order within 15 days after publication of this order in the Federal Register and that all applicants are directed to file rebuttal cases under § 22.916(b)(4) of the Rules within 45 rather than 30 days after publication of this order in the Federal Register.

54. If is further ordered, That except to the extent granted in this order, the Petitions to Deny filed by CCCI, CMS, Metro Mobile and Midwest are denied.

55. It is further ordered, That the Motion to Strike filed by CCCI is denied.

56. It is further ordered, That any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

57. It is further ordered, That any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

58. This order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, 91 FCC 2d 633 (1982), and is effective on its release date. Applications for review under § 1.115 of the Rules may be filed within the time limits specified in this section. See also Rule 1.4(b)(2).

59. The Secretary shall cause a copy of this Order to be published in the Federal Register.

Act of 1934 as amended section 409(c) [47 U.S.C. 409(c)]; Administrative Procedure Act section 554(d) [5 U.S.C. 554(d)]; Section 1.1221 of the Commission's Rules.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-9446 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-332, File No. BPH-811027AD, etc.]

Garfield County Broadcasters, et al.; Designating Applications for Consolidated Heaing on Stated Issues

Hearing Designation order

Adopted: March 29, 1983.
Released: April 5, 1983.

In re Applications of Stanley Pratt, Joann Clark, Harriet Shideler, and Robert Gaines d.b.e. Garfield County Broadcasters, Rifle, Colorado, Req: 105.3 MHz, Channel 287C, 100 kW (H&V), -78 feet, MM Docket No. 83-332, File No. BPH-811027AD; Susan K. Hughes, Rifle, Colorado, Req: 105.3 MHz, Channel 287C, 86.34 kW (H&V), 1741 feet, MM Docket No. File No. 83-333, File No. BPH-820524AU; and Ronald L. Bryant and Rosanne Bryant d.b.a. Bryant Communications, Rifle, Colorado, Req: 105.3 MHz, Channel 287C, 100 kW (H&V), -78 feet, MM Docket No. 83-334, File No. BPH-820524AY; For construction permit for a new FM station.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Stanley Pratt, Joann Clark, Harriet Shideler, and Robert Gaines dba Garfield County Broadcasters, Susan K. Hughes, and Ronald L. Bryant and Rosanne Bryant dba Bryant Communications.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communication 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 which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

6. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as requrired by § 73.3594(g) of the Rulles.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 83-9447 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-323, File No. BR-820331F9 and MM Docket No. 83-324, File No. BP-820630AN]

Northern Indiana Broadcasters, Inc., and Gonzalez Limited Partnership; for Construction Permit.

Memorandum Opinion and Order

Adopted: March 31, 1983.
Released: April 7, 1983.

In re Application of Northern Indiana Broadcasters, Inc., Michigan City, Indiana, Has: 1420 kHz, 5 kW-U, DA-2, For Renewal of License of Station WIMS, Michigan City, Indiana and Gonzales Limited Partnership, Michigan City, Indiana, Req: 1420 kHz, 5 kW-U, DA-2.

1. The Commission by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it for

consideration the application of Northern Indiana Broadcasters, Inc. (NIB) for renewal of license of Station WIMS, Michigan City, Indiana; an application for a construction permit for the WIMS facilities filed by Gonzalez Limited Partnership (GLP); a petition to dismiss the GLP application filed by NIB; and pleadings related thereto. [1]

2. *NIB.* Examination of NIB's application indicates that it is legally, financially and technically qualified to operate as proposed. However, since its application is mutually exclusive with that of GLP, it must be designated for a comparative hearing.

3. *GLP.* In its petition to dismiss, NIB alleges that although GLP states in its application that it is a limited partnership, review of the pertinent records in Indiana reveals that GLP had not complied with Indiana provisions governing the formation of limited partnerships at the time it filed its application. NIB therefore concludes that the GLP application is a legal nullity. In addition, NIB argues that since GLP's limited partnership was not in existence on the last date for the filing of a competing application against Station WIMS (July 1, 1982), GLP's application must be dismissed. However, the standard for determining whether dismissal of an application is appropriate whether the application "is so patently violative of the rules as to make its processing a futile gesture * * *" *K & L Communications, Inc., supra* at 1989. In this regard, we observe that GLP responded to every question on its application and that it supplied all indicated exhibits. Further, review of the GLP application does not reveal any information which indicates that grant of the GLP application would be violative of any Commission rule. Accordingly, we concluded that the GLP application was substantially complete when filed. In addition, we note that on September 14, 1982, GLP apparently complied with Indiana law regarding the formation and registration of limited partnerships when it filed it limited partnership agreement with the County Recorder to LaPorte County, Indiana. [2] Thus, there no longer appears to be any question as to the legal status of GLP as a limited partnership. In view of the foregoing, we shall deny NIB's petition to dismiss. [3]

4. As noted, examination of GLP's application indicates that it is legally, financially and technically qualified to operate as proposed. However, since its application is mutually exclusive with that of NIB, it must be designated for a comparative hearing.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned 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 which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, That NIB's petition to dismiss is denied.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order within 20 days of the mailing of this Order pursuant to § 1.221(c) of the Commission's Rules.

8. It is further ordered, That the applicants herein shall give notice of the hearing pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, either individually or jointly, if feasible and consistent with the Rules, within the time and in the manner prescribed in Rule 73.3594, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Larry D. Eads,

Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 83-9449 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[1] In accordance with the policy enunciated in *K & L Communications, Inc.*, 70 FCC 2d 1987, *recon. den.*, 46 RR 356 (1979), NIB's petition to dismiss will be treated as an informal objection.

[2] Although it is readily apparent that GLP's representation in its application to the effect that it was a limited partnership was correct, there is nothing before us which suggests any wrongdoing on the part of GLP.

[3] Since both the courts (*see, e.g. Radio Athens, Inc.* v. *F.C.C.*, 401 F.2d 398 (D.C. Cir. 1968)) and the Commission (*see, e.g., B-Q-A, Incorporated*, 68 FCC 2d 1334 (1978)) have held that defective applications can be amended after the "cut-off" date so long as the application was substantially complete when originally filed and the amendment is not the type which would rerquire the assignment of a new file number, we perceive no reason why we should not accept the submission of the GLP limited partnership agreement *nvc pro tunc* as of the original date of tender of its application.

[MM Docket No. 83-335, File No. BPH-820309AK and MM Docket No. 83-336, File No. BPH-820624AR]

Omni Communications, Inc. and Lee Optical and Associated Companies, Retirement and Pension Fund Trust; for Construction Permit for a New FM Station.

Hearing Designation Order

Adopted: March 29, 1983.
Released: April 7, 1983.

In re Applications of Omni Communications, Inc., Woodward, Oklahoma, Req: 101.1 MHz, Channel 266C, 100 kW (H&V), 1005 feet; and Lee, Optical and Associated Companies Retirement and Pension Fund Trust, Mooreland, Oklahoma, Req: 101.1 MHz, Channel 266C 100 kW (H&V), 710 feet.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Omni Communications, Inc. (Omni) and Lee Optical and Associated Companies Retirement and Pension Fund Trust (Lee Optical).

2. *Lee Optical.* Lee Optical has not submitted an adequate description in narrative form of the planned programming service relating to the issues of public concern facing its proposed service area. See Question 1, Section IV, FCC Form 301 (1982). Accordingly, it will be necessary for the applicant to file an amendment with the presiding Administrative Law Judge.

3. Lee Optical's proposal indicates that it will employ 5 or more fulltime employees. Therefore, it is required to submit the Model EEO Program Form. See Section VI of FCC Form 301 (1982). Although Lee Optical filed the Model EEO Program Form, it was deficient in that the applicant did not complete the answers to elements IV and V (Recruitment and Training). Therefore, it will be necessary for Lee Optical to file an amendment with the presiding Administrative Law Judge.

5. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

6. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be

designated for hearing in a consolidated proceeding on the issues specified below.

7. 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:

2. To determine the areas and populations which would receive primary aural service (1 m V/m or greater in the case of FM) from each proposal and the availability of other primary service to such areas and populations.

3. To determine, in light of 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.

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis better serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

8. It is further ordered, That Lee Optical shall file an amendment with the presiding Administrative Law Judge outlining its proposed programming service relating to the issues of public concerns facing its proposed service area within 30 days of the release of this Order.

9. It is further ordered, That Lee Optical shall file an amendment to its Model EEO Program with the presiding Administrative Law Judge within 30 days of the release of this Order.

11. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to Section 311(a) (2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Service Division, Mass Media Bureau.

Appendix

4. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by the below listed applicant. Accordingly, it is further ordered, That the following issue is specified:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height and location proposed by Lee Optical.

10. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

[FR Doc. 83-9443 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-317, File No. BPCT-820909KK and MM Docket No. 83-318, File No. BPCT-821108KG]

Radio Station WPAY, Inc. d.b.a. Janesville Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: March 28, 1983.
Released: April 5, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Radio Station WPAY, Inc. (Radio), and Brian Friedman and Kenneth W. Russell d.b.a. Janesville Broadcasting Co. (Janesville) for authority to construct a new commercial television station on Channel 30, Portsmouth, Ohio.

Radio Station WPAY, Inc.

2. Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's Rules. They must then file proof of publication of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Radio has done either. If Radio has not already done so, it will be required to file a statement that it has or will comply with the public notice requirement with the Administrative Law Judge within 30 days of the release of this Order.

3. Section 73.636(a)(1) of the Commission's Rules sets out a policy against granting a television construction permit to an applicant with principals who, directly or indirectly, own, operate, or control an AM or FM radio station licensed to the same community as its proposed television station. Note 8 exempts UHF applicants from the blanket prohibition of § 73.636(a)(1) and, instead, requires case-by-case analysis to determine whether common ownership, operation, or control of the station in question would be in the public interest. Radio states that Paul F. Braden, president and 100% stockholder of the applicant, is also president and 100% stockholder of WPAY(AM) and WPAY-FM, Portsmouth, Ohio. Since Radio's proposed Grade A contour would envelop Portsmouth, an issue will be designated to determine whether Mr. Braden's interest in WPAY and WPAY-FM and his interest in the proposed station would be consistent with the public interest.

4. The proposed tower of Radio is located 0.04 miles from the non-directional tower of AM station WPAY, Portsmouth, Ohio. Because of the proximity of the proposed tower to WPAY, any grant of a construction permit to Radio will be conditioned to ensure that WPAY's radiation pattern is not adversely affected by the construction of the proposed station.

Brian Friedman and Kenneth W. Russell d.b.a. Janesville Broadcasting Co.

5. Section 73.682(a)(15) of the Commission's Rules states that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. Janesville's aural power is 100% of the visual. The applicant will be required to correct this situation by an appropriate amendment.

6. On February 10, 1983, Janesville filed an amendment to its application stating that the transmitter and tower site proposed may no longer be available. An appropriate issue will be specified.

Conclusion and Order

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated

proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Seciton 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Radio Station WPAY, Inc., whether common ownership, operation or control of station WPAY and WPAY–FM, Portsmouth, Ohio and the proposed television station would be consistent with the public interest.

2. To determine, with respect to Janesville, whether there is reasonable assurance that its specified transmitter site will be available.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That Radio Station WPAY, Inc. shall file certification with the presiding Administrative Law Judge that it has or will publish local notice of the filing of its application within 30 days after the date of release of this Order.

10. It is further ordered, That any grant of a construction permit to Radio will be subject to the following condition:

Prior to construction of the tower authorized herein, permittee shall notify AM Station WPAY so that that station may commence determining operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, antenna impedance measurements of the AM station shall be made and sufficient field strength measurements, taken at a minimum of 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional. Prior to or simultaneous with the filing of the application for license to cover this permit, the results of the field strength measurements and the impedance measurements shall be submitted to the Commission in an application for the AM station to return to the direct method of power determination.

11. It is further ordered, That Janesville shall submit, pursuant to § 73.682(a)(15) of the Commission's Rules, to the presiding Administrative Law Judge within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the aural effective radiated power.

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

13. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594, of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-0450 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-319, File No. BPCT-820902KE; etc.]

Showair, Inc, et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Showair, Inc., Manchester, New Hampshire, MM Docket No. 83–319, File No. BPCT–820902KE; Brian Friedman and Kenneth Russell d.b.a. Janesville Broadcasting Co., Manchester, New Hampshire, MM Docket No. 83–320, File No. BPCT–821108KF; and Golden Triangle TV 60, Merrimack, New Hampshire, MM Docket No. 83–321, File No. BPCT–821109KG; for construction permit.

Hearing Designation Order

Adopted: March 30, 1983.
Released: April 5, 1983.

1. The commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Showair, Inc. (Showair), Brian Friedman and Kenneth Russell d.b.a. Janesville Broadcasting Co. (Janesville) and Golden Triangle TV 60 [Golden] for authority to construct a new commercial television station on Channel 60, Manchester, New Hampshire.[1]

2. Golden specifies Merrimack as its community of license, while the others propose Manchester. Consequently, it will be necessary 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 broadcast service. Since these proposals would serve substantial areas in common, however, in addition to the Section 307(b) issue, a contingent comparative issue will also be specified.

3. Showair has an application pending for subscription television (STV) authority. However, the STV application will not be considered in this proceeding. This is in keeping with the Commission's policy in regard to mutually exclusive applications for a new station where one contemplates STV operation and the others a conventional facility. *Subscription Television Service*, 85 F.C.C. 2d 631 (1981).

4. Section 73.682(a)(15) of the Commission's Rules states that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. Janesville's aural power is 100% of the visual. The applicant will be required to correct this situation by an appropriate amendment.

5. On February 10, 1983, Janesville filed an amendment to its application stating that it no longer had reasonable assurance of the availability of its transmitter site. An appropriate issue will be specified.

6. Golden proposes to operate from a site located within 250 miles of the Canadian border with maximum visual effective radiated power of more than 1000 kilowatts. The proposal poses no interference threat to United States television stations; however, it contravenes an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes*, T.I.A.S. 2594 (1952). In the event of a grant of the application, the construction permit shall contain a condition precluding station operation with maximum visual ERP in excess of 1000 kilowatts.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals

[1] Channel 60 is allocated to Manchester, New Hampshire. Merrimack is located within 15 miles of Manchester. Accordingly, under former § 73.607 of the Commission's Rules, Channel 60 is available for use in Merrimack, New Hampshire.

are mutually exclusive, the Commission in unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. 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, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Janesville, whether there is reasonable assurance that its specified transmitter site will be available.

2. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

3. To determine, in light of 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 television service.

4. In the event it is concluded from Issue 3, above, that a choice among applicants should not be based solely on considerations relating to Section 307(b), to determine which proposal would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That Janesville shall submit, pursuant to § 73.682(a)(15) of the Commission's Rules, to the presiding Administrative Law Judge within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the aural effective radiated power.

10. It is further ordered, That in the event of a grant of Golden's application, the construction permit shall contain the following condition:

Subject to the condition that operation with effective radiated visual power in excess of 1000 kW is subject to the consent of Canada.

11. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-9444 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-314, File No. 50009-CM-P-81 and CC Docket No. 83-315, File No. 50035-CM-P-81]

Telecommunications Systems, Inc. and Microband Corporation of America, For Construction Permits in the Multipoint Distribution Service for a New Station at Bloomington, Indiana; Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order

Adopted March 24, 1983.
Released April 4, 1983.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Bloomington, Indiana. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Telecommunications Systems, Inc., Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-9451 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

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[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Controls/MDS*, 85 FCC 2d 1023 (1981)

[2] By Memorandum Opinion and Order adopted June 26, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

Application for Review of Action Taken Pursuant To Delegated Authority

March 4, 1983.

Docket or RM No.	Rule part	Subject	Date received
None	Part 97	Request for rule amendment so as to grant alien amateur radio operators from countries in ITU Regions 1 and 3 operating under FCC reciprocal permits, the authority to transmit on all amateur radio frequencies above 144 MHz. (Filed by Jospeh P. Speroni (AH0A)).	2-22-83

Note.—Oppositions to applications for review must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-9461 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

Meeting of the Assembly of the Telecommunications Industry Advisory Group

Pursuant to Section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's Assembly scheduled to meet on Tuesday, April 26, 1983. The meeting will be held at 9:30 a.m. in Room 856 of the Federal Communications Commission's offices at 1919 M Street, NW., Washington, D.C. The meeting will be open to the public. The agenda is as follows:

I. General Administrative Matters.

II. Proposed Amendment To The By-Laws.

III. Plant Account Model.

IV. Other Business.

V. Presentation of Oral Statements.

VI. Adjournment.

With prior approval of the Group Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Group Chairman determines that an oral presentation is conducive to the effective attainment of Advisory Group objectives. Anyone not a member of the Assembly and wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman (202/634-1509), at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-9454 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee Common Carrier Communications Subcommittee; Change in Meeting Location and Time

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Common Carrier Communications Subcommittee of the National Industry Advisory Committee (NIAC) to be held Tuesday, April 19, 1983. The Subcommittee will meet at the Ramada Renaissance Hotel located at 1143 New Hampshire Avenue, NW., Washington, D.C. at 9:30 A.M. (This meeting was previously announced as starting one-half hour earlier at a location of the FCC.)

Purpose: To consider emergency communications matters.

Agenda: As follows:

1. Opening remarks by Chairman.

2. Statement of the function and structure of NIAC.

3. Consideration of regulatory implications of the activities of the National Security Telecommunications Advisory Committee (NSTAC).

4. Establishment of an agenda and date for the next meeting of the Common Carrier Communications Subcommittee.

5. Other business.

6. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634-1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-9452 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1399]

Petitions for Reconsideration of Actions in Rule Making Proceedings

April 4, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: American Telephone and Telegraph Company. Offer of Facilities to Other Common Carriers. (Docket No. 21499)

Filed by: Bennett Feigenbaum, Robert B. Stechert & Alfred A. Green, Attorneys for American Telephone and Telegraph Company onb 3-17-83. Kenneth Gross, Attorney for Western Union Telegraph Company on 3-25-82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-9455 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Resumes Meeting April 20, 1983

March 12, 1983.

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Wednesday April 20, 1983 at 10 a.m. in the McCollough Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing U.S.-Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss preparations for bilateral discussions which have started with Mexico, looking toward post-Rio revision of the U.S.-Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the April 20, 1983 session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace E. Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-9457 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Expense Accounts Subcommittee Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee

scheduled to meet on Monday, April 25, 1983. The meeting will begin at 9:00 a.m. and will be open to the public. The meeting location is:

Monday, April 25, 1983

GTE Service Corporation, Suite 900, 1120 Connecticut Ave., N.W., Washington, D.C.

The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, 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. Howes (212/393-4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-9458 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

SES Performance Award Schedule

The Federal Communications Commission scheduled a ceremony to present performance awards to SES members on March 4, 1983. For further information contact Michele C. Cooke, Chief of the Executive Personnel and Development Branch on 653-7291.

William J. Tricarico,

Secretary.

[FR Doc. 83-9456 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

[Docket Nos. 83-304, Filed Nos. BP-821116AN etc.]

CIMA Broadcasting Limited Partnership; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: March 23, 1983.

Released: April 4, 1983.

In re applications of CIMA Broadcasting Limited Partnership, Tucson, Arizona, MM Docket No. 83-304, File No. BP-821116AN; Req: 580 kHz, 0.5 kW, 5 kW-LS, DA-N, U; Benito Juarez Sandoval, Tucson, Arizona, MM Docket No. 83-305, File No. BP-821221AO; Req: 580 kHz, 0.5 kW, 5 kW-LS, DA-N, U; Cactus Broadcasting D/B/A KXEW Radio, South Tucson, Arizona, MM Docket No. 83-306, File No. BP-821229AB; Has: 1600 kHz, 1 kW, DA-N, U Req: 580 kHz, 0.5 kW, 5 kW-LS, DA-N, U; El Sol Broadcasting, Inc., Tucson, Arizona, MM Docket No. 83-307, File No. BP-821229AC; Req: 580 kHz, 0.5 kW, 5 kW-LS, DA-N, U; Fiesta Productions, Inc., Tucson, Arizona, MM Docket No. 83-308, File No. BP-821229AD; Req: 580 kHz, 0.5 kW, 5 kW-LS, DA-N U; Elliott-Phelps Broadcasting Limited Partnership, Tucson, Arizona, MM Docket No. 83-309, File No. BP-821229AE, Req: 580 kHz, 0.5 kW, 5 kW-LS, DA-N, U, For Construction Permit

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications for the deleted facilities of section KIKX, Tucson, Arizona.

2. *CIMA Broadcasting Limited Partnership.* Raul B. Gamez, a CIMA general partner and 20% owner, serves, according to the applicant, as a member of the Community Advisory Board of stations KUAT AM-FM-TV, all licensed to the University of Arizona at Tucson. Dr. Frank Felix, a CIMA 3% limited partner, is Assistant Vice President of the University, CIMA also reports. While these positions do not appear on their faces to be interests recognized by our AM multiple ownership rule (§ 73.35 of our Rules), additional information is necessary for a final decision on this score. The applicant is therefore directed to file with the presiding Administrative Law Judge a full description of its principals' relationship with and influence over the operation of the University's stations.

3. *Benito Juarez Sandoval.* The engineering data submitted with Sandoval's proposal (Section V-A of the application form) indicates (a) that the proposed studio will be neither within the boundaries of the community nor at the transmitter site, and (b) that the population within the 1 mV/m contour is neither less than 300 persons nor less than 1.0 percent of the population within the 25 mV/m contour. As the applicant proposes to use the facilities of deleted station KIKX, these responses seem to reflect error rather than intent. Sandoval should clarify his responses in an appropriate filing with the presiding Administrative Law Judge.

4. *Fiesta Productions, Inc.* The applicant acknowledges that its proposed 25 mV/m contour does not encompass Tucson's business district, as required by § 73.24(j) of our Rules, but indicates neither the precise size of the omitted area or the specific reasons why better coverage is unobtainable.[1] In the absence of this information, we cannot determine whether a waiver is necessary and, if so, warranted. The matter must therefore be left to the presiding Administrative Law Judge for ultimate resolution upon a full presentation by Fiesta of all considerations bearing on the issue.

5. No determination has been reached that Fiesta's tower height and location would not constitute a hazard to air navigation. Accordingly, an issue will be specified.

6. As indicated below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Further, as different communities are proposed, an issue must be specified to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which proposal would best provide a fair, efficient and equitable distribution of radio service. A contingent comparative issue will be specified as well.

7. 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, with respect to Fiesta Productions, Inc., whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

3. To determine, in light of 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.

4. 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.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That CIMA Broadcasting Limited Partnership,

[1] Fiesta is the only applicant not proposing use of KIKX's deleted facilities.

Benito Juarez Sandoval and Fiesta Productions, Inc. SHALL SUBMIT to the presiding Administrative Law Judge the information specified in paragraphs 2, 3 and 4 herein, within 30 days of the release of this order.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

10. 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 a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

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 within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 73.1594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau

[FR Doc. 83-9460 Filed 4-12-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-310, File No. BPCT-820914KE and MM Docket No. 83-311, File No. BPCT-821109KH

Great Western Communications Co. and Carnex TV, Inc.; Designating Applications for Consolidation Hearing on Stated Issues

Hearing Designation Order

Adopted: March 22, 1983.

Released: April 4, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Great Western Communications (Great Western) and Carnex TV, Inc. (Carnex) [1] for authority to construct a new commercial television broadcast station on Channel 44, Pensacola, Florida.

2. No determination has been reached that the tower height and location proposed by each of the applicants [2] would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. The effective radiated visual power, antenna height above average terrain and other technical data submitted by Great Western indicate that there would be a significant difference in the size of the area and population that it proposes to serve and the size of the area and population that Carnex proposes to serve. Consequently, for the purposes of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applicants are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applicants are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That, the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

7. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-9459 Filed 4-11-83; 8:45 am]

BILLING CODE 4-11-M

[Docket Nos. 83-301 etc.]

Natrona Broadcast Co., Inc; et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: March 18, 1983.

Released: April 4, 1983.

In re applications of Natrona Broadcast Company, Inc., Casper, Wyoming, MM Docket No. 83-301, BPH-810916AI, Req: 103.7 MHz, Channel 279C 59.1 kW, 1929 feet; Goodluck Broadcasting, Inc., Casper, Wyoming, MM Docket No. 83-302, BPH-820330BA, Req: 103.7 MHz, Channel 279C, 100 kW (H&V), 183 feet, Harvey Q. Gregory, Casper, Wyoming, MM Docket No. 83-303, BPH-820524AE, Req: 103.7 MHz, Channel 279C, 57.7 kW, 1929 feet, for construction permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Natrona Broadcast Company, Inc., Goodluck Broadcasting, Inc. and Harvey Q. Gregory for a new FM station to operate on 103.7 MHz, Channel 279C, in Casper Wyoming.

[1] A petition for Leave to Amend was filed on behalf of Carnex, on March 1, 1983. The Commission had requested additional information pertaining to Carnex's EEO program. Since the amendment was filed at the Commission's request, it is accepted. Great Western's amendment filed on February 24, 1983 correcting typographical error in its application is accepted for filing.

[2] The Commission is not in receipt of FAA's determination for the tower proposed by each of the applicants.

2. The Federal Aviation Administration has advised the Commission that the facilities proposed by Goodluck Broadcasting, Inc. may result in electronic interference with air navigation. Consequently, it will be necessary to determine whether the proposed facilities will create interference that constitutes a menace to air navigation. Accordingly, an issue regarding this matter will be specified and the FAA made a party to the proceeding with respect to this issue.

3. Data submitted by the applicants indicate that there would be a significant difference in the size of the populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. 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, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the facilities proposed by Goodluck Broadcasting, Inc. will create interference that constitutes a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

7. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

9. It is further ordered, That, with respect to Issue 1, both the burden of proceeding with the introduction of evidence and the burden of proof will be on the Federal Aviation Administration.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-9453 Filed 4-11-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Proposed New System of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed New System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Federal Emergency Management Agency gives notice of the proposed new system of records, FEMA/SLPS–12, Real Property Acquisition and Relocation File. A new system report has been filed with the Office of Management and Budget, the Speaker of the House of Representatives and the President of the Senate. The Office of Management and Budget has been requested to waive the advance notice requirement.

DATE: The proposed new system of records shall become effective as proposed without further notice 30 days from the date of this publication, unless the waiver is not approved or comments are received on or before that date which would result in a contrary determination. If the waiver is not approved or comments are received within 30 days of this publication which would result in a contrary determination, FEMA will publish such notice at that time. Any interested party may submit written comments regarding this proposal.

ADDRESS: Address comments to the Federal Emergency Management, Attn: Docket Clerk, Office of General Counsel, Room 840, 500 C Street, S.W., Washington, D.C. 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday (except for legal holidays).

FOR FURTHER INFORMATION CONTACT: Linda Keener, FOIA/Privacy Specialist, at (202) 287–0313.

SUPPLEMENTARY INFORMATION: The proposed system of records is needed to assist the Federal Emergency Management Agency in tracking the status of acquisition and relocation activities of homes in the State of Missouri under the Superfund program. Although the immediate need is to provide for the State of Missouri, it will be also be used for similar acquisitions in the future. Up to this time, a system of records was not required. However, because of vast number of homes involved in the immediate acquisition program for the State of Missouri, it is necessary that files be accessible by name of sellers of property and relocatees in order to provide the most rapid and efficient status to the seller/relocatee on their individual case.

Dated: March 31, 1983.

James L. Holton,

Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/SLPS–11

System name: Real Property Acquisition and Relocation File.

Security classification: Unclassified.

System location: The information will be gathered by a contractor for submission to the FEMA Regional Office which services the affected properties being acquired or relocated. The contractor will be subject to the Privacy Act requirements during the contractor's custody of the records. The information which is gathered by the contractor will be provided to the respective FEMA Regional Office. A secondary system will be maintained by the Associate Director, State and Local Programs and Support, Office of Disaster Assistance, Federal Emergency Management Agency, Washington, D.C.

Categories of individuals covered by the system: Individuals whose real property has been or is being acquired by FEMA and/or have been relocated or are being relocated by FEMA.

Categories of records in the system: The file may contain the appraised value of each individual's home; the amount paid to them by FEMA for purchase of their home; the amount of

relocation assistance benefits they receive, if applicable; title information; and socio-economic background of the individual seller or relocatee. The socio-economic information may include size of family, age and sex of family members, income level, level of indebtedness and net worth data. The file may also include deeds, contractual sale documents, and notations of follow-up actions by the individual selling his/her home or by FEMA that have been agreed to in the purchase of the property. Authority for maintenance of the system: Comprehensive Environmental Response Compensation Liability Act of 1980, Executive Order 12316, Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 et seq.), Section 1362 of the National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), as amended, 42 U.S.C. 4001–4128, Reorganization Plan No. 3 of 1978, and Executive Order 12127.

Purposes: Information is ussed for the purpose of tracking individual properties which qualify for acquisition and/or relocation under the Comprehensive Environment Response Compensation Liability Act of 1980 and/or Section 1362 of the National Flood Insurance Act of 1968, as amended. Routine uses of records maintained in the system, including categories of users and the purpose of such uses: Information may be provided to the affected State or a political subdivision thereof for the purpose of determining the State's or subdivision's eligibility for taking title to the acquired property for recreational and open space resources; to the Environmental Protection Agency for the purpose of verifying the proper eligibility and use of Superfund monies to acquire properties found to be uninhabitable for the population and in connection with legal cases brought under the Superfund; to the Small Business Administration for the purpose of determining the individual/business eligibility for loans and nonduplication of funds; and to the U.S. General Accounting Office, Department of Justice, or a United States Attorney for legal representation in duplication of benefits provided to the individual or legal cases brought by or against FEMA, or in the case of Superfund monies, those brought by or against the Environmental Protection Agency.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: Records are maintained in file folders, on lists and forms, and in computer processible storage media.

Retrievability: By name.

Safeguards: Personnel screening; hardware and software computer security measures. Paper records are retained in a locked container and/or locked room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

Retention and disposal: The file from whom real property has been acquired by FEMA and who have been relocated shall be retained for a period of six years and three months after the end of the fiscal year in which the property was acquired. As deemed appropriate in accordance with the Federal Records Retention Manual, the files will either be destroyed or transferred to the Federal Records Center.

System manager(s) and address: Federal Emergency Management Agency, Associate Director, State and Local Programs and Support, Washington, D.C. 20472.

Notification procedure: Individuals wishing to inquire whether this system of records contain information about them should contact the system manager identified above.

Records access procedure: Same as Notification procedure above. Contesting record procedure: Individual desiring to contesst or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the enevelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations ae promulgated in 44 CFR Part 6, published in the Federal Register.

Record source categories: Directly from the individual, the appraisal records, title report, or homeowners report.

[FR Doc. 83-9629 Filed 4-11-83; 8:45 am]
BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed; East Coast Columbia Conference, et. al.

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirments for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 7590–33.

Title: East Coast Colombia Conference.

Parties: Delta Steamship Lines, Inc., Flota Mercante grancolombiana, S.A., and Lykes Bros, Steamship Co., Inc.

Synopsis: The basic agreement would be amended to require the countersignature of a representative of a member line of the Conference in addition to the signature of the Conference Chairman or Vice Chairman before the security deposit of a member line could be drawn upon.

Filing party: Nathan J. Bayer, Esq., Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

Agreement No.: 7890–18.

Title: West Coast of South America Northbound Conference.

Parties: Chilean Line, Delta Steamship Lines, Inc., Peruvian State Line, Transnave, and Lykes Bros. Steamship Co., Ltd.

Synopsis: The basic agreement would be amended to require the countersignature of a representative of a member line of the Conference in addition to the signature of the Conference Chariman or Vice Chairman before the security deposit of a member line could be drawn upon.

Filing party: Nathan J. Bayer, Esq., Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

Agreement No.: 8900–20.

Title: The "8900" Lines Agreement.

Parties: Barber Lines; Hellenic Lines, Ltd.; Moller-Maersk Line, A.P. (J/S); Nedlloyd; Saudi National Shipping Company; Sea-Land Service, Inc.; United Arab Shipping Company SAG; and Waterman Steamship Corporation.

Synopsis: The provisions of the basic agreement would be amended to expressly provide that the member lines may collectively declare rates on specified commodities to be "open," with or without agreed minima or special conditions, and thereafter declare the rates on such commodities to be closed.

Filing party: Sandra L. Richardson, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Agreement No.: 10137–7

Title: Barber Blue Sea Line Joint Service.

Parties: Barber Lines A/S of Norway, The Swedish East Asia Company, Ltd. of Sweden and The Blue Sea Line Companies of England.

Synopsis: To extend the effectiveness of the Agreement through September 26, 1988.

Filing agent: Raymond R. Miles, Executive Vice President, Barber Blue Sea Line, 17 Battery Place, New York, New York 10004.

Agreement No.: 10261–12

Title: U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement.

Parties: Farrell Lines, Inc.; Hellenic Lines, Ltd.; Italian Line; Lykes Bros. Steamship Co., Inc.; Sea-Land Service, Inc.; and Zim Israel Navigation Co., Ltd.

Synopsis: The basic agreement would be amended to provide comprehensive procedures relating to the administration of expenses associated with the internal operation of the Rate Agreement.

Filing party: Anthony J. Ciccone, Jr., Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Agreement No.: 10390–2

Title: United States Atlantic & Gulf-Ecuador Freight Conference.

Parties: Delta Steamship Lines, Inc.; Ecuadorian Line and Transnave.

Synopsis: The basic agreement would be amended to require the countersignature of a representative of a member line of the Conference in addition to the signature of the Chairman or Vice Chairman before the security deposit of a member line could be drawn upon.

Filing party: Nathan J. Bayer, Esq., Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

Agreement No.: 10424–2.

Title: United States Atlantic & Gulf/Jamaica and Hispaniola Steamship Conference.

Parties: Concorde/Nopal Line; Puerto Rico Marine Management, Inc. (PRMSA); Sea-Land Service, Inc., and Trailer Marine Transport/CTMT.

Synopsis: The basis agreement would be amended to expressly provide that the Conference shall establish tariff rules and charges for free time, demurrage and detention.

Filing Party: Nathan J. Bayer, Esq., Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

Agreement No.: 10424–3.

Title: United States Atlantic & Gulf/Jamaica and Hispaniola Streamship Conference.

Parties: Concorde/Nopal Line; Puerto Rico Marine Management, Inc. (PRMSA); Sea-Land Service, Inc.; Trailer Marine Transport/CTMT.

Synopsis: The basic agreement would be amended to: (1) Enlarge the geographic scope of the conference to include ports in the Commonwealth of Pueto Rico and the U.S. Virgin Islands; (2) increase from two to five the number of rate making sections in the Conference; and (3) establish eligibility for membership and voting in the various rate-making sections.

Filing Party: Nathan J. Bayer, Esq., Feehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

Agreement No.: 10471.

Title: Ted L. Rausch Co. of Oregon and Innovative Freighting, Inc., Agency Agreement.

Parties: Ted L. Rausch Co. of Oregon (Rausch)/Innovative Freighting, Inc. (I.F.).

Synopsis: Agreement No. 10471 provides for Rausch to act as agent for I.F., whereby Rausch is to be responsible for all sales, operations and documentation of shipments moving via surface means throughout the world under the ocean bills of lading of I.F.

Filing Party: Mr. D.C. Buffam, Ted L. Rausch Co. of Oregon, 1628 N.W. Everett Street, Portland, Oregon 97209.

Dated: April 7, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-9616 Filed 4-11-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Company; Proposed De Novo Nonbank Activities; First Interstate Bancorp et al.

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *First Interstate Bancorp*, Los Angeles, California (investment advisory activities; United States and abroad): To acquire all of the shares of Spoor Behrins Campbell & Young, Inc., New York, New York ("Company") and through it to engage in the following activities: providing portfolio investment advice, and providing general economic information and advice, general economic statistical forecasting services and industry studies, as permitted pursuant to 12 CFR 225.4(a)(5) (iii) and (iv). These activities would be conducted from offices in New York, New York and Los Angeles, California, serving clients throughout the United States and abroad. Comments on this application must be received not later than May 6, 1983.

Board of Governors of the Federal Reserve System, April 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-9439 Filed 4-11-83; 8:45 am]

BILLING CODE 6210-01-M

Corporation To Do Business Under Section 25(a) of the Federal Reserve Act; Societe Generale

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Societe Generale International, Inc., Houston, Texas. Societe Generale International, Inc., would operate as a subsidiary of Societe Generale, Paris, France. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 6, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-9438 Filed 4-11-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of a Bank Holding Company; St. James Bancorporation, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *St. James Bancorporation, Inc.*, Lutcher, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of St. James Bank & Trust Company, Lutcher, Louisiana. Comments on this application must be received not later than May 4, 1983.

Board of Governors of the Federal Reserve System, April 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-9437 Filed 4-11-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Carolina Mountain Holding Co. et al.

The companies listed in this notice have applied for the board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. **Carolina Mountain Holding Company**, Highlands, North Carolina; to become a bank holding company by acquiring 80 percent of the voting shares of Carolina Mountain Bank, Highlands, North Carolina. Comments on this application must be received not later than April 25, 1983.

2. **Concord National Inc.**, Concord, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of The Concord National Bank, Concord, North Carolina. Comments on this application must be received not later than May 5, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **Forstrom Bancorporation, Inc.**, Clara City, Minnesota; to become a bank holding company by acquiring 98.5 percent of the voting shares of Citizens State Bank of Clara City, Clara City, Minnesota. Comments on this application must be received not later than May 4, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kanasa City, Missouri 64198:

1. **Yukon Temporary Holding Company**, Yukon, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of First Yukon Bankshares, Inc., Yukon, Oklahoma, and its subsidiary First National Bank, Yukon, Oklahoma. Comments on this application must be received not later than May 4, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. D'Arbonne Bancshares, Inc., Farmerville, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of The D'Arbonne Bank & Trust Company, Farmerville, Louisiana. Comments on this application must be received not later than may 5, 1983.

2. **Security Bancorporation, Inc.**, Temple, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Texas Bank and Trust of Temple, Temple Texas. Comments on this application must be received not later than May 4, 1983.

Board of Governors of the Federal Reserve System, April 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-9472 Filed 4-11-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Joint Venture With Gooch & Wagstaff, Inc.; Southeast Banking Corporation

Southeast Banking Corporation, Miami, Florida, has applied, pursuant to section 4(c)(8) of the Bank Holding

Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to establish a joint venture through its subsidiary, Southeast Investors Management Corporation, with Gooch & Wagstaff, Lakeland, Florida.

Applicant states that the proposed joint venture would engage *de novo* in investment advisory activities; in particular providing foreign and domestic investors with portfolio investment advice with respect to real property in accordance with § 225.4(a)(5)(iii), 225.4(a)(1) and 225.4(a)(4) of Regulation Y. 12 CFR § 225.4(a)(5)(iii),(1), and (4). These activities would be performed from an office of Applicant's subsidiary in Miami, Florida, and the geographic area to be served is global. The properties with respect to which these activities would be performed would be located primarily in the Southeastern United States and Texas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than May 5, 1983.

Board of Governors of the Federal Reserve System, April 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-9473 Filed 4-11-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; Stillwater Holding Co.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Stillwater Holding Company*, Stillwater, Minnesota; to acquire 97.7 percent of the voting shares or assets of First State Bank of Hugo, Hugo, Minnesota. Comments on this application must be received not later than May 5, 1983.

Board of Governors of the Federal Reserve System, April 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-9474 Filed 4-11-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Citicorp et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York. (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer finance activities; Massachusetts); To establish a *de novo* office of Citicorp Person-to-Person Financial Center, Inc. and a *de novo* office of Citicorp Homeowners, Inc. at a shared location in Burlington, Massachusetts. The activities in which each of the *de novo* offices propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The service area of each of the *de novo* offices would be comprised of the entire State of Massachusetts. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. Comments on this application must be received not later than May 5, 1983.

2. *Citicorp*, New York (finance company activities; Georgia, North Carolina and South Carolina): To

expand the activities of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. Such activity would be conducted from an office in Atlanta, Georgia serving the entire States of Georgia, North Carolina and South Carolina. Comments on this application must be received not later than May 5, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Milford, N.V.*, Oranjestad, Netherlands Antilles, and Ballerton Corporation, Ovideo, Spain (investment advisory activities; Florida, Central and South America, the Caribbean Region): To engage, through their subsidiary, Totalbank Corporation of Florida, Miami, Florida, in the furnishing of general economic information and advice, general economic statistical forecasting services, and industry studies. These activities would be conducted from an office in Miami, Florida, serving the State of Florida, Central and South America, and the Caribbean Region. Comments on this application must be received not later than May 3, 1983.

Board of Governors of the Federal Reserve System, April 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-9475 Filed 4-11-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Data Analysis Systems Subcommittee of the Science Advisory Board

Date, time, and place. May 5 and 6, 9 a.m., Conference Room, Bldg. 13, National Center for Toxicological Research, Jefferson, AR.

Type of meeting and contact person. Open public hearing, May 5, 9 a.m. to 10 a.m.; open committee discussion, May 5, 10 a.m. to 4:30 p.m., May 6, 9 a.m. to 2:30 p.m.; Lawrence W. Fishbein, National Center for Toxicological Research (HFT-30), Food and Drug Administration, Jefferson, AR 72079, 501-541-4528.

General function of the committee. To assist the Director, National Center for Toxicological Research, in establishing and implementing as well as advising on research and quality assurance programs that will assist the supporting agencies in fulfilling their regulatory responsibilities. The Board as a whole or under the subcommittee structure provides extra-agency review in ensuring that research and data analysis programs at the National Center for Toxicological Research are scientifically sound and pertinent to toxicological problems.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The Subcommittee will hear reports and make recommendations on the following agenda items: (1) Overview of Center activities: short-, intermediate-, and long-term projects; (2) pathology overview; (3) biometry—methods development, extrapolation, and experimental design; (4) Office of Scientific Intelligence Report; and (5) toxicological data management systems.

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. May 6, 9 a.m., Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 11 a.m.; open public hearing, 11 a.m. to 12 m.; open committee discussion, 1 p.m. to 5 p.m.; Neil Abel, National Center for Drugs and Biologics (HFN-150) Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss the status of the investigational new drug regulations rewrite; orphan drug development with regard to the Hatch Amendment; status of limulus amebocyte lysate testing for radiopharmaceuticals; petitions concerning unapproved uses for approved drugs; recommendations for changes in the radiopharmaceutical drugs research committee regulations; preservatives in Technetium Tc 99m labeled kits; expiration time for Technetium Tc 99m Pertechnetate; and international system of units for radiopharmaceuticals.

Arthritis Advisory Committee

Date, time, and place. May 12 and 13, 9 a.m., Conference Rm. E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, May 12, 9 a.m. to 10 a.m.; open committee discussion, May 12, 10 a.m. to 4 p.m., May 13, 9 a.m. to 4 p.m.; Dotti Moore, National Center for Drugs and Biologics (HFN-150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5197.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss statistical guidelines for nonsteroidal anti-inflammatory drugs; comparative efficacy claims for nonsteroidal anti-inflammatory drugs; and adverse reactions among nonsteroidal anti-inflammatory drugs.

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. May 19 and 20, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and executive secretary. Open public hearing, May 19, 9 a.m. to 10 a.m.; open committee

discussion, May 19, 10 a.m. to 5 p.m., May 20, 9 a.m. to 5 p.m.; A. T. Gregoire, National Center for Drugs and Biologics (HFN–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1869.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in treating endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons who want to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee executive secretary.

Open committee discussion. The committee will discuss: (1) Use of DDAVP (NDA 17–922) in mild hempophilia A and von Willebrands Disease and; (2) Winstrol (NDA 12–885) for osteoporosis and aplastic anemia.

Gastrointestinal Drugs Advisory Committee

Date, time, and place. May 20, 9 a.m., Auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joan C. Standaert, National Center for Drugs and Biologics (HFN–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in gastrointestinal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss possible labeling changes for Ethrane (enflurane) NDA 17–087, Ohio Medical, based on available data with respect to effects on the liver.

Immunology Device Section of the Immunology and Microbiology Devices Panel

Date, time, and place. May 23, 9 a.m., Rm. 703A–727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and panel section leader. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; open committee discussion, 1 p.m. to 5 p.m.; Srikrishna Vadlamudi, National Center for Devices and Radiological Health (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before May 6, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for alpha-fetoprotein reference preparation.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: April 6, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-9470 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0087]

Armak Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing that Armak Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of an anionic polyurethane as a component of paper and paperboard in contact with aqueous and fatty foods.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (see 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3370) has been filed by Armak Co., 300 S. Wacker Dr., Chicago, IL 60606, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of an anionic polyurethane porduced by reacting the preliminary adduct formed from the reaction of glyceryl monostearate and toluene diisocyanate with a mixture of *N*-methyldiethanolamine and dimethylolpropionic acid.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 1, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-9467 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 75N-0184; DESI 597]

Bentyl Syrup With Phenobarbital; Drug Efficacy Study Implementation; Revocation of Temporary Exemption; Proposal To Withdraw Approval of New Drug Application; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption that allowed Bentyl Syrup with Phenobarbital to remain on the market beyond the time limit established for the implementation of the Drug Efficacy Study. This notice also reclassifies the drug to lacking substantial evidence of effectiveness, proposes to withdraw approval of the new drug application, and offers an oportunity for hearing on the proposal.

DATES: The revocation of the temporary exemption is effective April 12, 1983; written notice of appearance and request for hearing must be submitted by May 12, 1983; material to support hearing request must be submitted by June 13, 1983.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 75N–0184 and DESI 597 and directed to the appropriate office named below.

Requests for hearing, supporting data and information, reports of other studies, and other comments: Dockets Management Branch (HFA–305) Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Susanne O'Shea, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–433–3650.

SUPPLEMENTARY INFORMATION: This notice covers the drug product listed below and any identical, similar, or related product (see 21 CFR 310.6) that is not the subject of an approved new drug application (NDA).

NDA 7–961; Bentyl Syrup with Phenobarbital containing dicyclomine hydrochloride 10 mg/5 mL and phenobarbital 15 mg/5 mL; Merrell-Dow Pharmaceuticals, 110 E. Amity Rd., Cincinnati, OH 45215. (NDA 7–961 also covers Bentyl Syrup containing dicyclomine hydrochloride alone. This product will be the subject of a future **Federal Register** notice.)

In a notice published in the **Federal Register** of July 27, 1972 (37 FR 15026), the Food and Drug Administration (FDA) classified Bentyl Syrup with Phenobarbital as possibly effective in the treatment of the irritable bowel syndrome, neurogenic bowel disturbances, infant colic, and as adjunctive therapy in the treatment of peptic ulcer. In a notice published in the **Federal Register** of November 11, 1975 (40 FR 52644), FDA announced that the product could remain on the market pending completion of clinical trials under an exemption from the time limits established in *American Public Health Ass'n* v. *Veneman*, 349 F. Supp. 1311 (D.D.C. 1972); (see also the **Federal Register** of December 14, 1972 (37 FR 26623)). The 1975 notice established time limits for submitting protocols and allowed manufacturers 18 months to complete their studies. In a notice published in the **Federal Register** of June 20, 1978 (43 FR 26490), the deadline for completion of the studies was extended to September 30, 1978. Because ample time has been provided for conducting trials, the exemption is now revoked.

On September 28, 1978, Merrell submitted a medical rationale and data intended to demonstrate the effectiveness of Bentyl Syrup with Phenobarbital in the irritable bowel syndrome (IBS) and infant colic. The National Center for Drugs and Biologics (NCDB; formerly called the Bureau of Drugs) has completed its review of these data and concludes that they do not constitute substantial evidence of effectiveness. A discussion follows.

1. *Irritable bowel syndrome.* Merrell argues that IBS has two inseparable components: gastrointestinal symptoms, and symptoms of anxiety, depression, or other psychoneurotic disorders. Merrell states that because Bentyl (dicyclomine hydrochloride alone) is effective treatment of gastrointestinal symptoms, and phenobarbital is an effective anti-anxiety agent, Bentyl Syrup with Phenobarbital should be available for those patients who require treatment with both ingredients. Merrell submitted copies of 31 literature references intended to establish that symptoms of anxiety or depression are inseparable for gastrointestinal symptoms and that barbiturates (including phenobarbital) are effective in anxiety. The firm relies on data derived from clinical investigations of Bentyl Tablets to establish its effectiveness in gastrointestinal symptoms. Merrell notes further advantages of combination products, e.g. patient convenience, better patient compliance, and economy.

Merrell seems to suggest by this medical rationale that Bentyl Syrup with Phenobarbital could be indicated, not for treatment of gastrointestinal disease alone, but for treatment of two independent conditions, gastrointestinal disease and anxiety, when the two conditions coexist. However, simply combining a drug effective in treating IBS (assuming that Bentyl is effective in IBS) with an effective anti-anxiety agent does not necessarily result in a combination product that meets the criteria of the combination policy (21 CFR 300.50(a)). The combination policy requires that the components be present in a "dosage * * * (amount, frequency, duration) such that the combination is safe and effective for a significant population requiring such concurrent therapy * * *." Accordingly, to meet the combination policy, Merrell must demonstrate the existence of a patient population needing concomitant treatment of two separate disorders, gastrointestinal disease and anxiety (i.e., a physician seeing such a patient without any gastrointestinal disease but with the same degree of anxiety would prescribe phenobarbital in the amount present in Bentyl Syrup with Phenobarbital). In addition, evidence must be presented that the gastrointestinal disease and anxiety arise and disappear more or less simultaneously so that neither drug is given for a condition that is no longer present. In the absence of evidence that Bentyl Syrup with Phenobarbital meets these criteria, factors such as increased patient compliance and convenience cannot be considered true advantages.

The literature references listed below provide some evidence that IBS and some psychological disorders sometimes occur simultaneously.

However, the psychological disorders discussed were often poorly defined. For

example, the Ryle article refers to "nervous" patients; "more or less neurotic" patients were examined in the White article; and the Chaudhary excerpt referred to patients with "obsessional worrying about many trivial problems" and "fear of cancer and other major diseses." None of the excerpts establish that the psychological disorders present along with IBS are of the type and magnitude requiring treatment with 15 mg phenobarbital. In addition, none of the references demonstrate that IBS and anxiety occur at about the same time and are approximately of the same duration. In fact, the Palmer and Liss articles specifically conclude that there is no consistent correlation between IBS and anxiety.

1. Ryle, J. A., "An Address on Chronic Spasmodic Afflictions of the Colon and the Diseases Which They Stimulate," *Lancet*, 2:1115–1119, 1928.

2. White, B. V., and C. M. Jones, "Mucous Colitis: A Delineation of the Syndrome with Certain Observations on its Mechanism and on the Role of Emotional Tension as a Precipitating Factor," *Annals of Internal Medicine*, 14:854–872, 1940.

3. Lumsden, K., et al., "The Irritable Colon Syndrome," *Clinical Radiology*, 14:54–63, 1963.

4. Chaudhary, N. A., and S. C. Truelove, "The Irritable Colon Syndrome," *Quarterly Journal of Medicine*, 31:307–322, 1962.

5. Kasich, A. M., "Management of Emotional Disorders, Anxiety and Depression in Patients with Gastrointestinal Disease," *Current Therapeutic Research*, 7:542–547, 1965.

6. Hill, O. W., and L. Blendis, "Physical and Psychological Evaluation of 'Non-Organic' Abdominal Pain," *Gut*, 8:221–229, 1967.

7. Diamond, S., "Amitriptyline in the Treatment of Gastrointestinal Disorders," *Psychosomatics*, 5:221–224, 1964.

8. Medeloff, A. T., et al., "Comparison of Characteristics of Patients with Ulcerative Colitis and with Irritable Colon in Metropolitan Baltimore, 1960–64," *Gastroenterology*, 54:1257, 1968.

9. Waller, S. L. and J. J. Misiewicz, "Prognosis in the Irritable-Bowel Syndrome," *Lancet*, 2:753–758, October 1969.

10. Hislop, I. G., "Psychological Significance of the Irritable Colon Syndrome," *Gut*, 12:452–457, 1971.

11. Stengel, E., "Pain and the Psychiatrist," *British Journal of Psychiatry*, 111:795–802, 1965.

12. Spear, F. G., "Pain in Psychiatric Patients," *Journal of Psychosomatic Research*, 11:189–193, 1967.

13. Engel, G. L., "The Concept of Psychosomatic Disorder," *Journal of Psychosomatic Research*, 11:3–9, 1967.

14. Palmer, R. L. et al., "Psychological Characteristics of Patients with the Irritable Bowel Syndrome," *Postgraduate Medical Journal*, 50:416–419, 1974.

15. Liss, J. L. et al., "The Irritable Colon Syndrome and Psychiatric Illness," *Diseases of the Nervous System*, 34:151–157, 1973.

16. Young, S. J., et al., "Psychiatric Illness and the Irritable Bowel Syndrome," *Gastroenterology*, 70:162–166, 1976.

Merrell submitted the 11 references listed below to demonstrate the effectiveness of phenobarbital in treating various psychiatric disorders. NCDB acknowledges that phenobarbital alone is effective treatment for certain psychological disorders. However, in the absence of a showing that such psychological disorders exist along with IBS, the effectiveness of phenobarbital in treating the disorders is immaterial. Similarly, whether Bentyl alone is effective is immaterial in the absence of data showing that IBS and psychological disorders co-exist.

17. Wheatley, D., et al., "Phenobarbitone Compared with an Inactive Placebo in Anxiety States. (General Practitioner Clinical Trials)," *Practitioner*, 192:147–151, 1964.

18. Rosner, H., et al., "A Comparative Study of the Effect on Anxiety of Chlorpromazine, Reserpine, Phenobarbital, and a Placebo," *Journal of Nervous and Mental Diseases*, 122:505–512, 1955.

19. Moyer, J. H., et al., "A Comparative Study of Four Tranquilizing Agents, Phenobarbital, and Inert Placebo," *Geriatrics*, 13:153–170, 1958.

20. Beard, W. J., and S. M. Free, Jr., "Two Double-Blind, Controlled Studies Comparing Chlorethate, A New Sedative-Tranquilizer, with Meprobamate and with Phenobarbital," *Journal of Clinical Pharmacology*, 7:41–45, 1967.

21. Wheatley, D., "A Comparative Trial of Imipramine and Phenobarbital in Depressed Patients Seen in General Practice," *Journal of Nervous and Mental Diseases*, 148:542–549, 1969.

22. Downing, R. W., et al., "Orthogonal Factors Vs. Interdependent Variables as Predictors of Drug Treatment Response in Anxious Outpatients," *Psychopharmacologia*, 32:93–111, 1973.

23. Rickels, K., et al., "Amitriptyline Diazepam, and Phenobarbital Sodium in Depressed Outpatients," *Journal of Nervous and Mental Diseases*, 157:442–451, 1973.

24. Rickels, K., and R. W. Downing, "Predicting Relief from Anxiety with Phenobarbital," *Psychosomatics*, 15:30–34, 1974.

25. Rickels, K., et al., "Butabarbital Sodium and Chlordiazepoxide in Anxious Neurotic Outpatients: A Collaborative Controlled Study," *Clinical Pharmacology and Therapeutics*, 11:538–550, 1970.

26. Stotsky, B. A., and J. Borozne, "Butisol Sodium Vs. Librium Among Geriatric and Younger Outpatients and Nursing Home Patients," *Diseases of the Nervous System*, 33:254–267, 1972.

27. Stotsky, B. A., "Sodium Butabarbital for Emotional Disorders and Insomnia," *Diseases of the Nervous System*, 33:798–803, 1972.

Merrell identified four literature references (listed below) that report on the results of clinical trials investigating the use of a variety of anticholinergic/sedative combination products in IBS or other gastrointestinal disease. Gastrointestinal symptoms only, not psychological symptoms, were measured in the studies. Accordingly, the studies cannot demonstrate the effectiveness of anticholinergic sedative combination products in treating concurrent anxiety and IBS. Rather, the studies appear to be based on the assumption that IBS and anxiety are related etiologically, and that relief of any anxiety (there is no indication in Merrell's discussion of these references that any of the patients were in fact anxious) would result in greater relief of the gastrointestinal symptoms. Bentyl Syrup with Phenobarbital was not tested in any of the studies. These studies, therefore, provide no evidence of the effectiveness of Bentyl Syrup with Phenobarbital in treating IBS (21 CFR 314.111(a)(5)(ii)(*b*)).

28. King, J. C., "Anisotropine Methylbromide for Relief of Gastrointestinal Spasm: Double-Blind Crossover Comparison Study with Bellandonna Alkaloids and Phenobarbital," *Current Therapeutic Research*, 8:535–541, 1966.

29. Batterman, R. C., et al., "Anisotropine Methylbromide: A New Antispasmodic for Gastrointestinal Disorders," *Current Therapeutic Research*, 5:213–218, 1963.

30. Asher, L. M., "The Choice of Anticholinergic Drugs in the Treatment of Functional Digestive Diseases," *American Journal of Digestive Diseases*, 4:260–275, 1959.

31. Lichstein, J., and J. D. Mayer, "Drug Therapy of the Unstable Bowel (Irritable Colon). A 15-Month Double Blind Clincial Study in 75 Cases of Response to a Prolonged-Acting Bellandonna Alkaloid-Phenobarbital Mixture or Placebo," *Journal of Chronic Diseases*, 9:394–404, 1959.

In addition to the literature references described above, Merrell submitted the results of a clinical trial which investigated the effectiveness of Bentyl with Phenobarbital Tablets in treating IBS. However, the firm submitted no data demonstrating that the data on Bentyl with Phenobarbital Tablets is applicable to Bentyl Syrup with Phenobarbital. Moreover, Merrel acknowledges that the study fails to show that each component makes a significant contribution to the effectiveness of the product (21 CFR 300.50(a)).

2. *Infant colic.* Merrell submitted eight literature references intended to demonstrate the effectiveness of Bentyl Syrup with Phenobarbital in treating infant colic. Three of the references contain only a discussion of the etiology of infant colic. None of the three recommend medication in treating colic and do not constitute evidence of effectiveness derived from adequate and

well-controlled clinical trials (21 CFR 314.111(a)(5)(ii)). In fact, these excerpts support the observation that colic is a benign, self-limiting condition with a tendency toward spontaneous remission and not requiring medical treatment.

1. Brazelton, T. B., "Crying in Infancy," *Pediatrics*, 29:579–588, 1962.

2. Laupers, W. E., "Nutrition and Nutritional Disorders, Nutritional Requirement," *in* "Nelson Textbook of Pediatrics," U. C. Vaughan, R. J. McKay, and W. E. Nelson, editors, W. B. Saunders Co., Philadelphia, 1975, p. 180.

3. Paradise, J. L., "Maternal and Other Factors in the Etiology of Infantile Colic." *Journal of the American Medical Association*, 197(3):123–131, 1966.

The following four references pertain to Bentyl Syrup which contains dicyclomine hydrochloride alone. These references clearly cannot demonstrate the effectiveness of Bentyl Syrup with Phenobarbital (21 CFR 300.50(a)).

4. Guerroro, R. M., et. al., "The Use of Bentyl Hydrochloride in Filipino Children," *The Phillippine Journal of Pediatrics*, 11(2):30–33, April–June 1953.

5. Grunseit, F., "Evaluation of the Efficacy of Dicyclomine Hydrochloride ("Merbentyl") Syrup in the Treatment of Infant Colic," *Current Medical Research and Opinion*, 5:258–261, 1977.

6. Illingworth, R. S., "Evening Colic in Infants; A Double-Blind Trial of Dicyclomine Hydrochloride," *Lancet*, 2:1119–1120, 1959.

7. Pignone, M., and M. L. Fantini, "Dicyclomine Hydrochloride for Vomiting in Nursing Infants," *Clinical Pediatrics* (Bologna), 48: Suppl. 3:313–342, 1964.

Only one reference pertained to Bentyl Syrup with Phenobarbital. There are a number of deficiencies in the study, however, and it does not constitute substantial evidence of effectiveness.

8. Pakula, S. P., "Treatment of Infantile Colic and Related Disorders with a New Antispasmodic," *Postgraduate Medicine*, 11:123–125, 1952.

In this study, 72 infants with colic were administered Bentyl Syrup, and 35 infants were administered placebo, with or without phenobarbital. The author states that of the infants given Bentyl Syrup, 68 percent obtained complete relief in 1 to 5 days; 11 others obtained complete relief with the addition of ¼ gram phenobarbital, increasing the total patients completely relieved to 83 percent. Of the 35 placebo patients, 6 obtained relief and 29 were treatment failures. The author states that this difference is statistically significant.

The reference lacks the details that permit scientific evaluation and is inadequate to demonstrate the effectiveness of Bentyl Syrup with Phenobarbital in treating infant colic. 21 CFR 314.111(a)(5)(ii)(*c*). It cannot be determined whether the study was adequately controlled because no information was provided concerning the number of placebo patients given phenobarbital and, therefore, not placebo patients at all (21 CFR 314.111(a)(5)(ii)(*a*)(4)). Informaton is also lacking on the diagnostic criteria used, measures used to mimimize bias and assure comparability in test and control groups, and an explanation of the methods of observations and recording results (21 CFR 314.111(a)(5)(ii)(*a*)).

Revocation of Exemption/Notice of Opportunity for Hearing.

On the basis of all the data and information available to him, the Director of the National Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts who are qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 300.50(a), that provides substantial evidence of effectiveness of Bentyl Syrup with Phenobarbital.

Ample time for conducting clinical trials has been provided. Therefore, the temporary exemption granted by the November 11, 1975 notice, as amended by the June 20, 1978 notice, is revoked insofar as it pertains to Bentyl Syrup with Phenobarbital.

In addition, notice is given to Merrell-Dow Pharmaceuticals and to all other interested persons that the Director of the National Center for Drugs and Biologics proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335(e)) withdrawing approval of that portion of NDA 7–961 pertaining to Bentyl Syrup with Phenobarbital, and all amendments and supplements thereto that pertain to that product, on the ground that new information before him with respect to Bentyl Syrup with Phenobarbital, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to Merrel-Dow Pharmaceuticals, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product not the subject of an approved new drug application that is identical, related, or similar to Bentyl Syrup with Phenobarbital as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the found for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug product because it is generally recognized as safe and effective within the meaning of section 201(p) of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310 and 314), the applicant and all other persons subject to this notice under 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application pertaining to Bentyl Syrup with Phenobarbital should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products.

The applicant, or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before May 12, 1983, a written notice of appearance and request for hearing, and (2) on or before June 3, 1983, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested persons may submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not

to make use of the opportunity for hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions in response to this notice must be filed in quintuplicate. The submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.70 and 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982).

Dated: April 5, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-9463 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0084]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3, 5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in chlorinated isobutylene-isoprene copolymers intended for use in contact with food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348 (b)(5))), notice is given that a petition (FAP 3B3710) has been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in chlorinated isobutylene-isoprene copolymers complying with § 177.1420(a)(3) (21 CFR 177.1420(a)(3)) intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: April 1, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-9464 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0098]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5,-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in rigid acrylic and modified acrylic plastics intended to contact food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3714) has been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5,-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in rigid acrylic and modified acrylic plastics complying with § 177.1010 (21 CFR 177.1010) intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: April 1, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-9468 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0103]

Cilco™, Inc.; Premarket Approval of the Cilco™, AC1-AC5 Anterior Chamber Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Cilco™ AC1–AC5 Anterior Chamber Lens sponsored by Cilco™, Inc., Huntington, WV. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by May 12, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets

Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, Office of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On June 26, 1981, Cilco™ Inc., submitted to FDA an application for premarket approval of the Cilco™ AC1–AC5 Anterior Chamber Lens. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application for the use of this intraocular lens (IOL) for either primary or secondary implantation in patients 60 years of age and older who do not have contraindications to IOL implantation following intracapsular or extracapsular cataract extraction. On March 17, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 12, 1983, file with the Dockets Management Branch (HFA–305) (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 6, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-9485 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Nashville District Office, chaired by Hayward E. Mayfield, District Director. The topic to be discussed is: Nutrition Labeling Format Change.

DATE: Friday, April 22, 1983, 2:30 p.m.

ADDRESS: Freed-Hardeman College, Henderson, TN 38340.

FOR FURTHER INFORMATION CONTACT: Jessica A. Parchman, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615–251–7127.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: April 6, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-9490 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82P–0303]

Downs Surgical, Inc.; Sugita Aneurysm Clip; Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment the recommendation of the Neurological Device Section of the Respiratory and Nervous System Devices Panel (the Section) that FDA reclassify the Sugita aneurysm clip from class III (premarket approval) into class II (performance standards). The Section made this recommendation after review of a reclassification petition filed by Downs Surgical, Inc. After reviewing the Section recommendation and any public comments received, FDA will approve or deny the reclassification petition by order in the form of a letter to the petitioner. FDA's decision on this reclassification petition will be announced in the **Federal Register.**

DATE: Comments by May 12, 1983.

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

FOR FURTHER INFORMATION CONTACT: A. Doyle Gantt, National Center for Devices and Radiological Health (HFK–430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION:

Classification of any medical device in commercial distribution is required by section 513 of the Medical Device Amendments of 1976 (Pub. L. 94–295) (the amendments) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c).

On August 18, 1982, Downs Surgical, Inc., Decatur, GA 30035, submitted to FDA under section 513(f)(2) of the act a reclassification petition for the Sugita aneurysm clip manufactured by Mizuho Ikakogyo Co., Tokyo, Japan. Commercially marketed preamendments aneurysm clips (i.e., aneurysm clips marketed before May 28, 1976, the enactment date of the amendments) have already been classified into class II (21 CFR 882.5200). The postamendments Sugita aneurysm clip is automatically classified into class III under section 513(f)(1) of the act because it is not substantially equivalent to any device that was in commercial distribution

before May 28, 1976, nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(22)), before a device that is in class III can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approved application for premarket approval under section 515 of the act. There is no approved premarket approval application in effect for the Sugita aneurysm clip.

Section 513(f)(2) of the act requires FDA to refer a reclassification petition to the appropriate advisory panel and to receive a recommendation on whether to approve or deny the petition. Accordingly, FDA referred the petition to the Section and the Section reviewed the petition.

To determine the proper classification of the device, the Section considered the criteria specified in section 513(a)(1) of the act. Section 513(a) of the act establishes three classes of devices. Classification is determined by the level of regulatory control needed to provide reasonable assurance of the safety and effectiveness of the devices therein. A class I device is a device for which the "general controls" authorized by or under various sections of the act are sufficient to provide reasonable assurance of the safety and effectiveness of the device. A class II device is a device for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which "it is therefore necessary to establish * * * a performance standard under section 514 to provide reasonable assurance of its safety and effectiveness". A class III device is a device that cannot be classified into class I or class II and that is purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or that presents a potential unreasonable risk of illiness or injury. Premarket approval obtained in accordance with section 515 of the act (21 U.S.C. 360e) is required to provide reasonable assurance of the safety and effectiveness of a class III device.

Section 513(c)(2)(C) provides that classification panels are to recommend that devices intended to be implanted in the human body be classified in class III, unless the panel concludes that class III is not necessary to provide reasonable assurance of the safety and effectiveness of the device and provides reasons for this conclusion (see also 21 CFR 860.93(a)). Section 513(d)(2)(B) (21 U.S.C. 360c(d)(2)(B)) provides that FDA shall classify an implanted device into class III unless such classification is not necessary to provide reasonable assurance of its safety and effectiveness (see also 21 CFR 860.93(b)).

The data on which any reclassification is based are required to consist of "valid scientific evidence," as defined in section 513(a)(3) of the act (21 U.S.C. 360c(a)(3)) and § 860.7(c)(21 CFR 860.7(c)) of the regulations. As specified in § 860.123(a)(6) (21 CFR 860.123(a)(6)), the valid scientific evidence of safety and effectiveness contained in a petition for reclassification must demonstrate (1) that the device should not be classified into its present classification and (2) that the proposed classification will provide reasonable assurance of the safety and effectiveness of the device. For the purposes of reclassification, the valid scientific evidence upon which the agency relies may not be based on trade secret or confidential commercial information obtained by FDA under various sections of the act (see section 520(c) of the act (21 U.S.C. 360j(c)); 21 CFR 860.5(e)), or on the detailed summaries of information respecting the safety and effectiveness of devices for which there are approved applications (see section 520(h)(3) of the act (21 U.S.C. 360j(h)(3))). However, all data and information contained in a filed petition for reclassification under section 513(f) of the act (21 U.S.C. 360c(f)) may be disclosed by the agency, and used as the basis for reclassification of a device from class III into class II (21 CFR 860.5(e)).

On November 4, 1982, the Section recommended that FDA reclassify the petitioner's aneurysm clip into class II; include the petitioner's aneurysm clip in the generic type of device with the preamendments aneurysm clips, and assign a high priority to the application of a performance standard for the generic type of device. (See 21 CFR 860.3(i) for a definition of the term "generic type of device".)

Summary of Reasons for the Recommendation

This Section gave the following summary of reasons in support of its recommendation on reclassification. The Sugita clip, as well as other aneurysm clips, must perform reliably to occlude an intracranial aneurysm without tearing the blood vessel wall, slipping off the aneurysm, or causing long-term adverse effects from bioincompatibility. The Section believes that general controls will not provide sufficient control over these characteristics. Although the Sugita aneurysm clip is an implanted device, the Section believes that premarket approval is not necessary because the Sugita aneurysm clip is constructed of material that has been shown to have suitable properties for an aneurysm clip and because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of this device. The Sugita aneurysm clip differs from the preamendments aneurysm clips in that the Sugita aneurysm clip is constructed of Elgiloy ™, a type of cobalt-chromium alloy, while the pre-amendments aneurysm clips are constructed of other types of materials, e.g., stainless steel. The material of which an aneurysm clip is made must be biocompatible and capable of being formed into a spring that will reliably close with a known pressure. On the basis of its review of clinical and in vitro data, the Section believes that Elgiloy ™ is biocompatible because it has a history of successful use as an implantable material in pacemaker electrodes and dental appliances. Further, the data submitted by the petitioner demonstrate that the Elgiloy ™ material used to construct the Sugita aneurysm clip can be used to produce an aneurysm clip that will reliably apply a known pressure to a blood vessel.

Summary of Data Upon Which the Recommendation is Based

The petitioner performed the following tests on eight randomly selected Sugita aneurysm clips to characterize the metallurgical properties of the clip material: a reactivation/passivation test, a pitting potential test, a hardness test, an x-ray diffraction analysis, and an energy dispersive x-ray analysis. The petitioner then compared the results of these tests to results obtained during performance of the same tests on several other aneurysm clips that have been classified into class II and that are currently being marketed in the United States.

The petitioner performed the reactivation/passivation test and pitting potential test to determine the corrosion resistance of the Sugita aneurysm clip material. Scanning electron microscopy observations of the surfaces of the clips revealed minimal surface etching between the grain during the reactivation phase of the reactivation/passivation test. Similarly, the surfaces of the clip showed virtually no changes following the pitting potential test.

Results of this test were compared to results obtained from the same testing on materials used in four other currently marketed clips. The corrosion resistance of the material used in the Sugita aneurysm clip was found to be equal to or greater than the corrosion resistance of the other aneurysm clip materials tested.

The petitioner conducted the hardness test on the Sugita aneurysm clip to determine indirectly the strength and elasticity of the clip material. The results obtained with the Sugita aneurysm clip were compared to results obtained for four other marketed clips tested in an identical manner. The material in the Sugita aneurysm clip was found to have strength and elasticity that were equal to or greater than that of the four other materials tested.

The petitioner conducted the x-ray diffraction analysis to determine the homogeneity of the crystalline structure of the Sugita aneurysm clip material and the amount of residual stresses of the clip material. This information is important in assessing a material's potential resistence to stress corrosion, because differences in the crystal structure between neighboring parts of the same material can create a galvanically active interface. Galvanic action can lead to excessive corrosion, which may be accelerated by the presence of abnormally high internal, residual stresses. Results of this test revealed the presence of a single crystalline structure with normal residual stresses in the material used in the Sugita aneurysm clip. These results were also compared to the results obtained for materials currently used in other marketed aneurysm clips. Based on these results, the sponsor concluded that the stress corrosion resistance of the material used in the Sugita aneurysm clip was equal to or greater than the stress corrosion resistance of other materials currently being used in marketed aneurysm clips.

The petitioner used energy dispersive x-ray analysis to verify the composition of the Sugita aneurysm clip surface at various locations. The surface was found to have the following typical composition: 20 percent chromium, 15 percent nickel, 15 percent iron, 7 percent molybdenum, and 43 percent cobalt. To obtain good corrosion resistance it is important that each component in a multicomponent design be fabricated from a single homogenous alloy of the identical composition.

Corrosion resistance of a metallic implant is an essential property for biocompatibility. The results of the testing described above showed that the Elgiloy™ material used in the Sugita aneurysm clip is very resistant to corrosion. Elgiloy™ has been successfully used for many years in cardiac pacemaker electrodes and in dental appliances. In addition, Laing (Ref. 1) tested the heat treated version of the material used in the Sugita aneurysm clip and found that it produced a tissue reaction in rabbit muscle which was similar to that produced for other alloys that are commonly implanted in the human body.

The petitioner assessed the interaction between the Sugita aneurysm clip and the Sugita aneurysm clip applier to determine if the applier can alter the metal surface of the clip or leave a deposit of applier material on the clip because abrasion of the protective oxide layer can accelerate corrosion. The design of the clip applier is such that no relative motion occurs between the applier and the clip. In addition, scanning electron microscope (SEM) photographs of the clip after manipulation with the applier verified no surface changes. If metal transfer occurs from the applier to the clip, and the metal deposited is a different composition, then an electronchemical condition referred to as galvanic corrosion could be initiated. Energy x-ray dispersive analysis of the gripping surface of the applier and the clip verified that both materials are identical in composition. The SEM and x-ray data of the applier surface and the clip demonstrated that no material was transferred between the two devices. Therefore, accelerated corrosion due to an applier/clip interaction will not occur.

The petitioner measured the closing force exerted by the Sugita aneurysm clip blade on a total of 160 clips. These data were then compared to closing force measurements performed on five other aneurysm clips currently marketed in the United States. The data showed that the amount, the variability, and the hysteresis of the closing forces produced by the Sugita aneurysm clips are comparable or superior to the closing forces of the other clips that were tested.

The petitioner provided force measurement data obtained after repreated opening and closing for three Sugita aneurysm clips. This testing, which involves opening and closing the clip 100 times, is performed on a sample of randomly selected clips from each lot of clips that are made. Results obtained on the three clips showed that the closing force of each clip degraded much less than 20 percent, which the Section believed was satisfactory.

The petitioner exposed four Sugita aneurysm clips to 20 standard steam sterilization cycles to determine if repeated exposure to heat would degrade the closing force exerted by each clip. The petitioner measured the amount of closing force exerted by each clip before and after the repeated sterilizations. Results showed that repeated sterilization does not degrade the closing force of the clip.

The Sugita aneurysm clip is designed with a waffle type gripping surface to decrease the tendency of the clip to slip from a blood vessel. Sugita, et al., compared the resistance to clip slippage of the Sugita aneurysm clip with the resistance to clip slippage of four other aneurysm clips marketed in the United States (Ref. 2). Dr. Sugita, the clip designer, pulled the clips from the extracranial internal carotid and vertebral arteries of five mongrel dogs. The same tests were conducted to compare resistance to clip slippage using sheets of paper instead of arteries. The amount of force required to pull the Sugita aneurysm clop from the arteries and the sheets of paper was greater than for all but one of the marketed clips tested.

A detailed description of the manufacturing and quality control procedures was provided to demonstrate that it is possible to consistently produce an aneurysm clip with adequate performance characteristics. These procedures include raw material tests and inspections, numerous visual examinations, surface treatment procedures, and 100 percent force testing.

Sugita et al. (Refs. 3 and 4), reported on the clinical use of the Sugita aneurysm clip in a total of 34 intracranial aneurysm cases. Thirty of these patients were treated successfully with no complications. Two patients had residual neurological complications and two patients died. None of the complications or deaths attributed to a failure of the device.

Risks To Health

The Section believes that the risks to health that were identified during classification of the preamendments aneurysm clip (43 FR 55703) are the same as for this device. They are: (a) Slippage of the clip which may result in hemorrhage and death; if the clip does not maintain sufficient pressure, or if the jaw design does not provide sufficient friction, the clip may open or slide off the aneurysm after operation and allow the aneurysm to bleed, (b) cutting of the aneurysm or its parent vessel; in some designs, the "crotch" part of a clip may cut the arterial wall, or a clip having a

sharp edge may accidentally cut the artery, and (c) tissue toxicity; clips containing materials that are not biocompatible may cause an adverse tissue reaction.

Additional Findings

For the purpose of classification, the Section recommended that FDA assign to the device the name and identification used for the preamendments generic type of device aneurysm clip that already has been classified into class II (21 CFR 882.5200). Thus, the panel recommended that the petitioner's device be named the "aneurysm clip" and that it be identified as a device intended to occlude an intracranial aneurysm (a balloon-like sac formed on a blood vessel) to prevent it from bleeding or bursting.

References

The petition, the transcript of the Section meeting, and the following material are on public file in the Dockets Management Branch (address above) where they may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday:

1. Laing, P. G., et al., "Tissue Reaction in Rabbit Muscle Exposed to Metallic Implants," *Journal of Biomedical Materials Research*, 1:135–149, 1967.

2. Sugita, K., et al., "Comparative Study of the Pressure of Various Aneurysm Clips," *Journal of Neurosurgery*, 44:423–727, 1976.

3. Sugita, K., et al., "New Angled Fenestrated Clips for Fusiform Vertebral Artery Aneurysms," *Journal of Neurosurgery*, 54:346–350, 1981.

4. Sugita, K., et al., "Microneurosurgery for Aneurysms of the Basilar Artery," *Journal of Neurosurgery*, 51:615–629, 1979.

After considering the economic consequences of approving this reclassification, FDA certifies that this notice requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Approval of this petition would not have a significant economic impact on a substantial number of small entities. The petitioner, and all future manufacturers of the aneurysm clip, would be relieved of the costs of complying with the premarket approval requirements in section 515 of the act. There are no off-setting costs that the petitioner would incur from reclassification into class II. The magnitude of the economic savings from approval of this petition depends on the extent of premarket approval studies the petitioner would have conducted and the number of future competitors satisfying the same requirements. Neither of these parameters can be reliably calculated to permit quantification of the economic savings. Because of statutory deadlines (section 513(f)(2) of the act) and requirements in the regulations (21 CFR 860.134(b)(5)), FDA is required to publish this notice in the **Federal Register** as soon as practicable. As authorized by section 8(a)(2) of Executive Order 12291, FDA is publishing in the **Federal Register** this notice without clearance of the Director, Office of Management and Budget. As soon as practicable, FDA will notify that office of the publication of this notice.

Interested persons may, on or before May 12, 1983, submit to the Dockets Management Branch (address above) written comments on the recommendation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 5, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-9319 Filed 4-11-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-83-1216]

Mutual Mortgage Insurance and Rehabilitation Loans; Changes to the Maximum Mortgage Limits for FHA-Insured Mortgages Covering Condominiums and One- to Four-family Residences

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

ACTION: Notice of revisions to the maximum mortgage limits for "high-cost" areas.

SUMMARY: This notice revises the listing of areas eligible for "high-cost" mortgage limits under HUD's single family insuring authorities by adding certain new areas and updating the existing "high-cost" limits in others. It also republishes a complete listing of all "high-cost" areas, along with their applicable mortgage limits. Mortgage limits are adjusted when the Secretary determines that middle and moderate income persons have limited housing opportunities due to high prevailing housing sales prices, and in the case of Alaska, Guam, and Hawaii to reflect higher prevailing construction costs.

EFFECTIVE DATE: April 12, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755–6720. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1701–1749) authorizes HUD/FHA to insure mortgages for single family residences. These include one- to four-family residences (see section 203) and one-family units in condominiums (see section 234(c)). The Housing and Community Development Act of 1980 amended the NHA to permit HUD to change the maximum mortgage amounts under these programs to reflect regional differences in the cost of housing. Section 214 of the NHA provides special high-cost limits for Alaska, Guam, and Hawaii.

Section 203 Programs. Section 203 of the NHA is the seminal provision for the insurance of mortgages covering single family residences, and many other NHA sections adopt the basic provisions contained in section 203. Other sections to which this Notice applies include: Section 203(k), loan insurance for rehabilitation of a structure used primarily as a residence; section 213 cooperative housing insurance; section 220, rehabilitation and neighborhood conservation housing; section 222, mortgage insurance for servicemen; section 240, financing purchases for homeowners of the fee simple title to property on which homes are located; section 244, coinsurance; section 245, graduated payment mortgages; and sections 809 and 810, armed services housing mortgage insurance.

Under section 203, the Secretary may increase maximum mortgage limits on an area-by-area basis if the Secretary deems it necessary after considering the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 203 provides that the increase may not exceed the lesser of the following:

A. 133⅓% of $67,500 in the case of a single-family residence; 133⅓% of

$76,000 in the case of a two-family residence; 133⅓% of $92,000 in the case of a three-family residence; 133⅓% of $107,000 in the case of a four-family residence.

or

B. 95% of the median one-family house price in the area, as determined by the Secretary for a one-family residence; 107% of that median for a two-family residence; 130% of that median for a three-family residence; 150% of that median for a four-family residence.

Section 234 Program. Section 234 of the NHA authorizes mortgage insurance for one-family units in condominium projects. Under this section, the Secretary may increase the maximum mortgage amount on an area-by-area basis if the Secretary deems it necessary after considering the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 234 provides that the increase may not exceed the lesser of the following:

A. 111% of $67,500; or

B. 95% of the median one-family house price in the area, as determined by the Secretary.

Section 214 Program. In addition to the "high-cost" limits discussed above, the NHA provides special limits for Alaska, Guam, and Hawaii. Section 214 states that if the Secretary determines that, because of higher prevailing costs, it is not feasible to construct dwellings in those areas within the maximum mortgage limits without sacrificing sound standards of construction, design or livability, the mortgage limits may be increased beyond the statutory "high-cost" area limits indicated above. These limits, however, may not exceed the otherwise applicable amounts by more than one-half.

This Notice

This notice does three things. First, it identifies new "high-cost" areas (and maximum mortgage amounts for those areas) and revised previously published maximum mortgage amounts for existing "high-cost" areas. These amounts are based upon the Federal Housing Commissioner's finding that middle and moderate income persons have limited housing opportunities because of high prevailing housing sales prices in the designated areas.

Second, it publishes new maximum mortgage amounts for condominiums in Alaska, Guam, and Hawaii. These amounts are based upon the Federal Housing Commissioner's finding that, because of high costs prevailing in those jurisdictions, it is not feasible to construct dwellings within otherwise applicable maximum mortgage amounts without sacrificing sound standards of construction, design and livability.

Third, it republishes that entire list of "high-cost" areas and maximum mortgage amounts applicable to the area, including single family and condominium maximum mortgage amounts for Alaska, Guam, and Hawaii.

The statutory NHA mortgage dollars limits are specified in 24 CFR 203.18(a) and 234.27(a). 24 CFR 203.18b(a) and 234.27(b) authorize the Federal Housing Commissioner to raise these statutory mortgage limits and previously published increased amounts by publishing revised dollar limitations in the **Federal Register**. The limits have been increased twice in the past year for designated areas (See 47 FR 917, January 7, 1982; 47 FR 52570, November 22, 1982).

Accordingly, the Commissioner is hereby expanding the list of Section 203(b) and Section 234(c) "high-cost" areas to include the following jurisdictions: Boston, MA SMSA; Wilmington, DE SMSA; Richmond, VA SMSA; Greenville-Spartanburg, SC SMSA; Sarasota, FL SMSA; Tampa-St. Petersburg, FL SMSA; Columbus, OH SMSA; Kansas City, MO SMSA; St. Louis, MO SMSA; Salt Lake City-Ogden, UT SMSA and Portland, OR SMSA; and the State of Connecticut.

The Commissioner is also revising previously published maximum mortgage amounts for the following areas: Bridgeport, CT SMSA; Danbury, CT SMSA; New York and Nassau-Suffolk, NY SMSA; State of New Jersey (northern metro areas); Washington, DC-MD-VA SMSA; Baltimore, MD SMSA; Ft. Lauderdale-Hollywood, FL SMSA; Miami, FL SMSA; West Palm Beach-Boca Raton, FL SMSA; Minneapolis St. Paul, MN SMSA; Chicago, IL SMSA; Detroit, MI SMSA; Cleveland, OH SMSA; Houston, TX SMSA; Austin and San Antonio, TX SMSA; Tulsa, OK SMSA; State of Colorado; Fresno, CA Service Office (metro and non-metro areas); Santa Ana, CA Service Office (non-metro areas); Phoenix, AZ SMSA; Tucson, AZ SMSA; Seattle-Everett, WA SMSA; and the State of Alaska.

Future Changes To Maximum Mortgage Amounts

In cases where interested parties consider that the designated maximum mortgage limits for any area (including areas currently subject to the statutory mortgage limits and not included in this Notice), do not accurately reflect the extent to which moderate and middle income persons have limited housing opportunities because of high prevailing housing sales prices (or in the case of Alaska, Guam or Hawaii, the extent to which high costs make it infeasible to construct dwellings without sacrficing sound standards of construction, design and livability), the parties may submit documented evidence in support of an alternative maximum mortgage limit. Where possible, such documentation should include an estimate of the median home sales price based upon local market sales price data which are representative of home sales (including new and existing construction) for the entire geographic area for which the request for change is made. The data should cover a recent period of at least three months. Separate areawide maximum mortgage amounts are currently published for SMSAs and statewide areas. It should be noted that separate limits have not been approved for individual jurisdictions outside of an SMSA, e.g., a county, or individual town or city. Requests for adjustments to maximum mortgage limits, together with the appropriate documentation, should be submitted to the appropriate HUD field office. The field office will forward the documented request, with the field office's recommendations, to the Commissioner for determination.

Paperwork Reduction Act. The information collection procedures indicated above will be submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The procedures are not effective until approved by OMB and a follow-up notice indicating effectiveness is published in the **Federal Register**.

Hereafter, Notices will be published from time to time announcing the high-cost area limits for particular jurisdictions, and the complete list of area-wide limits will be updated and republished at least annually.

Accordingly, the Commissioner is hereby publishing the revised dollar limitations as follows:

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Region I				
HUD FIELD OFFICE: BOSTON AREA OFFICE				
Boston, MA SMSA				
Essex County (part)	$72,700	$81,900	$99,600	$114,900

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Beverly city				
Lynn city				
Peabody city				
Salem city				
Boxford town				
Danvers town				
Hamilton town				
Lynnfield town				
Manchester town				
Marble head town				
Middleton town				
Nehant town				
Saugus town				
Swampscott town				
Topsfield town				
Wenham town				
Middlesex County (part):				
Cambridge city				
Everett city				
Malden city				
Medford city				
Melrose city				
Newton city				
Somerville city				
Waltham city				
Woburn city				
Acton town				
Arlington town				
Ashland town				
Bedford town				
Belmont town				
Boxborough town				
Burlington town				
Carlisle town				
Concord town				
Framingham town				
Holliston town				
Lexington town				
Lincoln town				
Natick town				
HUD FIELD OFFICE: BOSTON AREA OFFICE				
Middlesex County (part)	$72,700	$81,900	$99,600	$114,900
North Reading town				
Reading town				
Sherborn town				
Stoneham town				
Sudbury town				
Wakefield town				
Watertown town				
Weyland town				
Weston town				
Wilmington town				
Winchester town				
Norfolk County (part):				
Quincy city				
Bellingham town				
Braintree town				
Brookline town				
Canton town				
Cohasset town				
Dedham town				
Dover town				
Foxborough town				

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Franklin town				
Holbrook town				
Medford town				
Medway town				
Millis town				
Milton town				
Needham town				
Norfolk town				
Norwood town				
Randolph town				
Sharon town				
Stoughton town				
Walpole town				
Wellesley town				
Westwood town				
Weymouth town				
Wrentham town				
Plymouth County (part):				
Abington town				
Duxbury town				
Hanover town				
Hanson town				
Hingham town				
Hull town				
Kingston town				
Marshfield town				
Norwell town				
Pembroke town				
Rockland town				
Scituate town				
Suffolk County:				
Boston city				
Chelsea city				
Revere city				
Winthrop town				
HUD FIELD OFFICE: HARTFORD AREA OFFICE				
Bridgeport, CT SMSA				
Fairfield County (part)	$81,900	$92,200	$112,100	$129,300
Bridgeport city				
Shelton city				
Easton town				
Fairfield town				
Monroe town				
Stratford town				
Trumbull town				
New Haven County (part):				
Derby city				
Milford city				
Danbury, CT SMSA				
Fairfield County (part)	$90,000	$101,300	$122,650	$142,650
Danbury city				
Bethel town				
Brookfield town				
New Fairfield town				
Newton town				
Redding town				
Litchfield County (part):				
New Milford town				
Norwalk, CT SMSA				
Fairfield County (part)	$90,000	$101,300	$122,650	$142,650
Norwalk city				
Weston town				
Westport town				
Wilton town				
Stamford, CT SMSA				

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Fairfield County (part)	$90,000	$101,300	$122,650	$142,650
Stamford city				
Darien town				
Greenwich town				
New Canaan town				
State of Connecticut—all other metro and non-metro areas	$71,800	$80,900	$96,300	$113,400
Region II				
HUD FIELD OFFICE: NEW YORK AREA OFFICE				
New York and Nassau—Suffolk, NY SMSAS (Combined)				
Bronx County	$90,000	$101,300	$122,650	$142,650
Kings County				
Nassau County				
New York County				
Putnam County				
Queens County				
Richmond County				
Rockland County				
Suffolk County				
Westchester County				
HUD FIELD OFFICE: NEWARK AREA OFFICE				
State of New Jersey —Northern Metro Areas				
Bergen County	$90,000	$101,300	$122,650	$142,650
Essex County				
Hudson County				
Middlesex County				
Monmouth County				
Morris County				
Passaic County				
Somerset County				
Union County				
HUD FIELD OFFICE: CAMDEN SERVICE OFFICE				
Atlantic City, NJ SMSA: Atlantic County	$89,000	$100,000	$121,000	$141,000
Trenton, NJ SMSA: Mercer County	$68,500	$77,000	$93,500	$108,000
Wilmington, DE-NJ-MD SMSA: Salem County, NJ	$70,200	$79,100	$96,100	$110,900
Region III				
HUD FIELD OFFICE: PHILADELPHIA AREA OFFICE				
Wilmington, DE-NJ-MD SMSA: New Castle County, DE	$70,200	$79,100	$96,100	$110,900
HUD FIELD OFFICE: WASHINGTON, DC AREA OFFICE				
Washington, DC-MD-VA SMSA				
District of Columbia	$90,000	$101,300	$122,650	$142,650

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Montgomery County, MD				
Prince Georges County, MD				
Alexandria, city, VA				
Fairfax County, VA				
Falls Church city, VA				
Manassas city, VA				
Manassas Park city, VA				
Arlington County, VA				
Loudon County, VA				
Prince William County, VA				
HUD FIELD OFFICE: BALTIMORE AREA OFFICE				
Washington, DC-MD-VA SMSA:				
Charles County	$90,000	$101,300	$122,650	$142,650
Baltimore, MD SMSA (part):				
Howard County	$82,300	$92,700	$112,700	$130,000
Anne Arundel County				
Baltimore, MD SMSA (part):				
Baltimore city	$74,700	$84,200	$102,300	$118,000
Baltimore County				
Carroll County				
Harford County				
Wilmington, DE-NJ-MD SMSA:				
Cecil County, MD	$70,200	$79,100	$96,100	$110,900
HUD FIELD OFFICE: RICHMOND AREA OFFICE				
Richmond, VA SMSA				
Richmond city	$68,300	$76,900	$93,500	$107,900
Charles City County				
Chesterfield County				
Goochland County				
Hanover County				
Henrico County				
New Kent County				
Powhatan County				
Newport News-Hampton and Norfolk-VA Beach, Portsmouth, VA SMSA (Combined)				
Chesapeake city	$76,500	$86,000	$104,500	$120,500
Hampton city				
Newport News city				
Norfolk city				
Poquoson city				
Portsmouth city				
Suffolk city				
Virginia Beach city				
Williamsburg city				
Gloucester County				
James City County				
York County				

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
Region IV				
HUD FIELD OFFICE: GREENSBORO AREA OFFICE				
Newport News-Hampton and Norfolk-VA Beach, Portsmouth, VA SMSA:				
Currituck County	$76,500	$86,000	$104,500	$120,500
HUD FIELD OFFICE: COLUMBIA AREA OFFICE				
Charleston-North Charleston, SC SMSA				
Berkeley County	$80,500	$90,500	$110,000	$127,500
Charleston County				
Dorchester County				
Greenville-Spartanburg, SC SMSA				
Greenville County	$72,900	$82,100	$99,700	$115,100
Pickens County				
Spartanburg County				
HUD FIELD OFFICE: ATLANTA AREA OFFICE				
Atlanta, GA SMSA				
Butts County	$78,500	$88,500	$107,000	$124,500
Cherokee County				
Clayton County				
Cobb County				
DeKalb County				
Douglas County				
Fayette County				
Forsyth County				
Fulton County				
Gwinnett County				
Henry County				
Newton County				
Paulding County				
Rockdale County				
Walton County				
HUD FIELD OFFICE: BIRMINGHAM AREA OFFICE				
Mobile, AL SMSA				
Baldwin County	$75,000	$84,000	$102,500	$118,000
Mobile County				
Montgomery, AL SMSA				
Autauga County				
Elmore County				
Montgomery County				
HUD FIELD OFFICE: MEMPHIS SERVICE OFFICE				
Memphis, TN-AR-MS SMSA				
Shelby County	$75,000	$84,000	$102,500	$118,000
Tipton County				
HUD FIELD OFFICE: JACKSON AREA OFFICE				
Memphis, TN-AR-MR SMSA:				
Desoto County	$75,000	$84,000	$102,500	$118,000

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
HUD FIELD OFFICE: CORAL GABLES SERVICE OFFICE				
Ft. Lauderdale-Hollywood, FL SMSA: Broward County	$78,700	$88,700	$107,700	$124,300
Miami, FL SMSA: Dade County	$81,800	$92,100	$111,900	$129,100
West Palm Beach-Boca Raton, FL SMSA: Palm Beach County	$79,700	$89,800	$109,100	$125,900
HUD FIELD OFFICE: TAMPA SERVICE OFFICE				
Sarasota, FL SMSA: Sarasota County	$78,100	$85,700	$104,100	$120,100
Tampa-St. Petersburgh, FL SMSA				
Hillsborough County	$71,500	$80,500	$97,900	$112,900
Pasco County				
Pinellas County				
Region V				
HUD FIELD OFFICE: MINNEAPOLIS-ST. PAUL AREA OFFICE				
Minneapolis-St. Paul, MN SMSA				
Anoka County	$90,000	$101,300	$122,650	$142,650
Carver County				
Chisago County				
Dakota County				
Hennepin County				
Ramsey County				
Scott County				
Washington County				
Wright County				
St. Cloud, MN SMSA				
Benton County	$88,500	$77,000	$93,500	$108,500
Sherburne County				
Stearns County				
HUD FIELD OFFICE: MILWAUKEE AREA OFFICE				
Minneapolis-St. Paul, MN SMSA				
St. Croix County	$90,000	$101,000	$122,650	$142,650
Milwaukee, WI SMSA				
Milwaukee County	$73,500	$83,000	$100,500	$116,500
Ozaukee County				
Washington County				
Waukesha County				
HUD FIELD OFFICE: CHICAGO AREA OFFICE				
Chicago, IL SMSA				
Cook County	$83,600	$94,200	$114,400	$132,000
DuPage County				
Kane County				
Lake County				
McHenry County				
Will County				
St. Louis, MO-IL SMSA				
Clinton County, IL	$70,200	$79,100	$96,100	$110,900
Madison County IL				
Monroe County, IL				

UPDATING OF FHA SECTION 203(b) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
St. Clair County, IL				
HUD FIELD OFFICE: DETROIT AREA OFFICE				
Detroit, MI SMSA				
Lapeer County	$75,300	$84,800	$103,000	$118,900
Livingston County				
Macomb County				
Oakland County				
St. Clair County				
Wayne County				
HUD FIELD OFFICE: CLEVELAND SERVICE OFFICE				
Cleveland, OH SMSA				
Cuyahoga County	$75,400	$84,900	$103,100	$119,000
Geauga County				
Lake County				
Medina County				
HUD FIELD OFFICE: COLUMBUS AREA OFFICE				
Columbus, OH SMA				
Delaware County	$61,100	$91,400	$111,000	$128,100
Fairfield County				
Franklin County				
Madison County				
Pickaway County				
Region VI				
HUD FIELD OFFICE: DALLAS AREA OFFICE				
Dallas-Ft. Worth, TX SMSA				
Collin County	$85,000	$95,000	$115,500	$134,500
Dallas County				
Denton County				
Ellis County				
Kaufman County				
Rockway County				
Sherman-Denison, TX SMSA:				
Grayson County	$78,000	$88,000	$106,500	$124,000
HUD FIELD OFFICE FORT WORTH SERVICE OFFICE				
Dallas-FT. Worth, TX SMSA				
Hood County	$85,000	$95,500	$115,500	$134,500
Johnson County				
Parker County				
Tarrant County				
Wise County				
HUD FIELD OFFICE: HOUSTON SERVICE OFFICE				
Houston, TX SMSA				
Brazoria County	$72,900	$82,200	$99,800	$115,200
Ft. Bend County				
Harris County				
Liberty County				
Montgomery County				
Waller County				
HUD FIELD OFFICE: LUBBOCK SERVICE OFFICE				
Amarillo, TX SMSA				
Potter County	$68,500	$77,000	$93,500	$106,500
Randall County				
Lubbock, TX SMSA: Lubbock County	$70,000	$78,500	$95,000	$110,500
Midland, TX SMSA: Midland County	$70,000	$78,500	$95,000	$110,500
HUD FIELD OFFICE: SAN ANTONIO AREA OFFICE				
Austin and San Antonio, TX SMSA (combined)				
Bexar County	$77,000	$86,800	$105,400	$121,700
Comal County				
Guadalupe County				
Hays County				
Travis County				
Williamson County				
Corpus Christi, TX SMSA				
Nueces County	$70,000	$78,500	$95,500	$110,500
San Partico County				
HUD FIELD OFFICE: LITTLE ROCK AREA OFFICE				
Memphis, TN-AR-MS SMSA: Crittenden County	$75,000	$84,000	$102,500	$118,000
HUD FIELD OFFICE: OKLAHOMA CITY AREA OFFICE				
Oklahoma City, OK SMSA				
Canadian County	$68,000	$76,500	$93,000	$106,000
Cleveland County				
McClain County				
Oklahoma County				
Pottawatomie County				
HUD FIELD OFFICE: NEW ORLEANS AREA OFFICE				
Baton Rouge and New Orleans, LA SMSA (Combined)				
Ascension Parish	$76,000	$85,500	$103,500	$120,500
East Baton Rouge Parish				
Jefferson Parish				
Livingston Parish				
Orleans Parish				
St. Bernard Parish				
St. Tammany Parish				
West Baton Rouge Parish				
HUD FIELD OFFICE: SHREVEPORT SERVICE OFFICE				
Shreveport-Bossier, LA SMSA				
Bossier Parish	$75,500	$85,000	$103,300	$119,200
Caddo Parish				
Webster Parish				
HUD FIELD OFFICE: ALBUQUERQUE SERVICE OFFICE				
Albuquerque, NM SMSA				
Bernalillo County	$76,500	$86,000	$104,000	$121,000
Sandoval County				
HUD FIELD OFFICE: TULSA SERVICE OFFICE				
Tulsa, OK SMSA				
Creek County	$82,500	$92,900	$112,900	$130,300
Mayes County				
Osage County				
Rogers County				
Tulsa County				
Wagoner County				
Region VII				
HUD FIELD OFFICE: KANSAS CITY AREA OFFICE				
Kansas City, MO SMSA				
Cass County, MO	$81,600	$91,900	$111,700	$126,900
Clay County, MO				
Jackson County, MO				
Platt County, MO				
Ray County, MO				
Johnson County, KS				
Wyandotte County, KS				
HUD FIELD OFFICE: ST. LOUIS AREA OFFICE				
St. Louis, MO-IL SMSA				
St. Louis City	$70,200	$79,100	$96,100	$110,900
Franklin County				
Jefferson County				
St. Charles County				
St. Louis County				
Region VIII				
HUD FIELD OFFICE: DENVER REGIONAL/AREA OFFICE				
Denver-Boulder, CO SMSA				
Adams County	$76,000	$85,500	$103,500	$120,500
Arapahoe County				
Boulder County				
Denver County				
Douglas County				
Gilpin County				
Jefferson County				
State of Colorado	$71,800	$80,900	$98,300	$113,400
All other metro and nonmetro areas				
State of Wyoming	$75,000	$84,000	$102,500	$118,000
HUD FIELD OFFICE: HELENA SERVICE OFFICE				
State of Montana, SMAS and non-SMSA Areas	$75,500	$84,000	$102,500	$118,000
HUD FIELD OFFICE: SALT LAKE CITY SERVICE OFFICE				
Salt Lake City-Ogden, UT SMSA				
Davis County	$75,000	$84,000	$102,500	$118,000
Salt Lake County				
Tooele County				
Weber County				
Region IX				
HUD FIELD OFFICE: LOS ANGELES AREA OFFICE				
Los Angeles Area Office Metro and Nonmetro Areas				
Los Angeles County	$90,000	$101,300	$122,650	$142,650

Updating of FHA Section 203(b) and Section 214 Area-Wide Mortgage Limits—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family	2-family	3-family	4-family
San Luis Obispo County				
Santa Barbara County				
Ventura County				
HUD Field Office: San Francisco Area Office				
San Francisco Area Office Metro and Nonmetro areas				
Alameda County	$90,000	$101,300	$122,650	$142,650
Contra Costa County				
Del Norte County				
Humboldt County				
Lake County				
Marin County				
Mendocino County				
Monterey County				
Napa County				
San Benito County				
San Francisco County				
San Mateo County				
Santa Clara County				
Santa Cruz County				
Solano County				
Sonoma County				
HUD Field Office: Fresno Service Office				
Fresno Service Office Metro and Nonmetro Area				
Fresno County	$88,500	$99,700	$121,200	$139,800
Kern County				
Kings County				
Madera County				
Mariposa County				
Merced County				
Stanislaus County				
Tulare County				
HUD Field Office: Sacramento Service Office				
Sacramento Service Office Metro and Nonmetro Areas				
Alpine County	$84,000	$95,000	$115,000	$133,500
Amador County				
Butte County				
Calaveras County				
Colusa County				
El Dorado County				
Glenn County				
Lassen County				
Modoc County				
Nevada County				
Placer County				
Plumas County				
Sacramento County				
San Joaquin County				
Shasta County				
Sierra County				
Siskiyou County				
Sutter County				
Tehama County				
Trinity County				
Tuolumne County				
Yolo County				
Yuba County				
HUD Field Office: San Diego Service Office				
San Diego Service Office Metro and Nonmetro Areas				
Imperial County	$90,000	$101,300	$122,650	$142,650
San Diego County				
HUD Field Office: Santa Ana Service Office				
Santa Ana Service Office Metro Areas	$90,000	$101,300	$122,650	$142,650
Orange County				
Riverside County				
San Bernardino County				
Nonmetro Areas	$75,000	$84,000	$102,500	$118,000
Inyo County				
Mono County				
HUD Field Office: Las Vegas Service Office				
Las Vegas, NV SMSA: Clark County	$90,000	$101,300	$122,650	$142,650
State of Nevada—nonmetro areas				
Lincoln County	$75,000	$84,000	$102,500	$118,000
Nye County (part)				
HUD Field Office: Reno Service Office				
Reno, NV SMSA: Washoe county	$89,500	$101,000	$122,000	$142,000
State of Nevada—nonmetro areas				
Carson City County	$75,000	$84,000	$102,500	$118,000
Churchill County				
Douglas County				
Elko County				
Esmeralda County				
Eureka County				
Humboldt County				
Lander County				
Lyon County				
Mineral County				
Nye County (Part)				
Pershing County				
Storey County				
White Pine County				
HUD Field Office: Phoenix Service Office				
Phoenix, AZ SMSA: Maricopa County	$87,100	$98,100	$119,200	$137,600
HUD Field Office: Tucson Service Office				
Tucson, AZ SMSA: Pima County	$77,000	$86,900	$105,600	$121,800
HUD Field Office: Honolulu Area Office				
State of Hawaii metro and nonmetro area	$135,000	$151,950	$183,975	$213,975
Territory of Guam	$101,250	$114,000	$138,000	$160,500
Region X				
HUD Field Office: Seattle Area Office				
Richland-Kennewick and Yakima, WA SMSAS (Com.)				
Yakima County	$72,000	$81,500	$99,000	$114,000
Seattle-Everett, WA SMAS				
King County	$85,200	$96,000	$116,700	$134,600
Snohomish County				
Tacoma, WA SMSA: Pierce County	$71,000	$80,000	$97,500	$112,500
HUD Field Office: Portland Area Office				
Portland, OR SMSA				
Clackamas County	$81,600	$91,900	$111,600	$128,800
Multnomah County				
Washington County				
Clark County				
HUD Field Office: Anchorage Area Office				
Anchorage, AK SMSA: Anchorage Census Division	$135,000	$151,950	$183,975	$213,975
State of Alaska—All Other Areas	$106,000	$119,400	$145,000	$167,400
HUD Field Office: Spokane Service Office				
Richland-Kennewick and Yakima, WA SMSAS (combined)				
Benton County	$72,000	$81,500	$99,000	$114,000
Franklin County				
Spokane, WA SMSA: Spokane County	$72,000	$81,500	$99,000	$114,000
HUD Field Office: Boise Service Office				
Boise City, ID SMSA: Ada County	$75,000	$84,000	$102,500	$118,000

Updating of FHA Section 234(c) and Section 214 Area-Wide Mortgage Limits

(Condominium units)

Market area designation and local jurisdictions	Mortgage limits (condominium)
Region I	
HUD Field Office: Boston Area Office	
Boston, MA SMSA	
Essex County (part)	$72,700

UPDATING OF FHA SECTION 234(c) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

[Condominium units]

Market area designation and local jurisdictions	Mortgage limits (condominium)
Beverly city	
Lynn city	
Peabody city	
Salem city	
Boxford town	
Danvers town	
Hamilton town	
Lynnfield town	
Manchester town	
Marble head town	
Middleton town	
Nahant town	
Saugus town	
Swampscott town	
Topsfield town	
Wenham town	
Middlesex County (part):	
Cambridge city	
Everett city	
Malden city	
Medford city	
Melrose city	
Newton city	
Somerville city	
Waltham city	
Woburn city	
Acton town	
Arlington town	
Ashland town	
Bedford town	
Belmont town	
Boxborough town	
Burlington town	
Carlisle town	
Concord town	
Framingham town	
Holliston town	
Lexington town	
Lincoln town	
Middlesex County (part)	$72,700
Natick town	
North Reading town	
Reading town	
Sherborn town	
Stoneham town	
Sudbury town	
Wakefield town	
Watertown town	
Wayland town	
Weston town	
Wilmington town	
Winchester town	
Norfolk County (part):	
Quincy city	
Bellingham town	
Braintree town	
Brookline town	
Canton town	
Cohasset town	
Dedham town	
Dover town	
Foxborough town	
Franklin town	
Holbrook town	
Medfield town	
Medway town	
Millis town	
Milton town	
Needham town	
Norfolk town	
Norwood town	
Randolph town	
Sharon town	
Stoughton town	

UPDATING OF FHA SECTION 234(c) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

[Condominium units]

Market area designation and local jurisdictions	Mortgage limits (condominium)
Walpole town	
Wellesley town	
Westwood town	
Weymouth town	
Wrentham town	
Plymouth County (part):	
Abington town	
Duxbury town	
Hanover town	
Hanson town	
Hingham town	
Hull town	
Kingston town	
Marshfield town	
Norwell town	
Pembroke town	
Rockland town	
Scituate town	
Suffolk County:	
Boston city	
Chelsea city	
Revere city	
Winthrop town	
HUD FIELD OFFICE: HARTFORD AREA OFFICE	
Bridgeport, CT SMSA	
Fairfield County (part)	$74,900
Bridgeport city	
Shelton city	
Easton town	
Fairfield town	
Monroe town	
Stratford town	
Trumbull town	
New Haven County (part):	
Derby city	
Milford city	
Danbury, CT SMSA	
Fairfield County (part)	$74,900
Danbury city	
Bethel town	
Brookfield town	
New Fairfield town	
Newtown town	
Redding town	
Litchfield County (part):	
New Milford town	
Norwalk, CT SMSA	
Fairfield County (part)	$74,900
Norwalk city	
Weston town	
Westport town	
Wilton town	
Stamford, CT SMSA	
Fairfield County (part)	$74,900
Stamford city	
Darien town	
Greenwich town	
New Canaan, town	
State of Connecticut—all other metro and non-metro areas	$71,800
Region II	
HUD FIELD OFFICE: NEW YORK AREA OFFICE	
New York and Nassau-Suffolk, NY SMSAS (Combined)	
Bronx County	$74,900
Kings County	
Nassau County	
New York County	
Putnam County	
Queens County	
Richmond County	

UPDATING OF FHA SECTION 234(c) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

[Condominium units]

Market area designation and local jurisdictions	Mortgage limits (condominium)
Rockland County	
Suffolk County	
Westchester County	
HUD FIELD OFFICE: NEWARK AREA OFFICE	
State of New Jersey—Northern Metro Areas	
Bergen County	$74,900
Essex County	
Hudson County	
Middlesex County	
Monmouth County	
Morris County	
Passaic County	
Somerset County	
Union County	
HUD FIELD OFFICE: CAMDEN SERVICE OFFICE	
Atlantic City, NJ SMSA: Atlantic County	$74,900
Trenton, NJ SMSA: Mercer County	$68,500
Wilmington, DE-NJ-MD SMSA: Salem County, NJ	$70,200
Region III	
HUD FIELD OFFICE: PHILADELPHIA AREA OFFICE	
Wilmington, DE-NJ-MD SMSA: New Castle County, DE	$70,200
HUD FIELD OFFICE: WASHINGTON, DC AREA OFFICE	
Washington, DC-MD-VA SMSA	
District of Columbia	$74,900
Montgomery County, MD	
Prince Georges County, MD	
Alexandria, city, VA	
Fairfax County, VA	
Falls Church city, VA	
Manassas city, VA	
Manassas Park city, VA	
Arlington County, VA	
Loudoun County, VA	
Prince William County, VA	
HUD FIELD OFFICE: BALTIMORE AREA OFFICE	
Washington, DC-MD-VA SMSA: Charles County	$74,900
Baltimore, MD SMSA (part):	
Howard County	$74,900
Anne Arundel County	
Baltimore, MD SMSA (part):	
Baltimore city	$74,700
Baltimore County	
Carroll County	
Harford County	
Wilmington, DE-NJ-MD SMSA: Cecil County, MD	$74,200
HUD FIELD OFFICE: RICHMOND AREA OFFICE	
Richmond, VA SMSA	
Richmond city	$68,300
Charles City County	
Chesterfield County	
Goochland County	
Hanover County	
Henrico County	
New Kent County	
Powhatan County	
Newport News-Hampton and Norfork-VA Beach, Portsmouth, VA SMSA (Combined)	
Chesapeake city	$74,900

UPDATING OF FHA SECTION 234(c) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

[Condominium units]

Market area designation and local jurisdictions	Mortgage limits (condominium)
Hampton city	
Newport News city	
Norfolk city	
Poquoson city	
Portsmouth city	
Suffolk city	
Virginia Beach city	
Williamsburg city	
Gloucester County	
James City County	
York County	
Region IV	
HUD FIELD OFFICE: GREENSBORO AREA OFFICE	
Newport News-Hampton and Norfolk-VA Beach, Portsmouth, VA SMSA: Currituck County	$74,900
HUD FIELD OFFICE: COLUMBIA AREA OFFICE	
Charleston-North Charleston, SC SMSA	
Berkeley County	$74,900
Charleston County	
Dorchester County	
Greenville-Spartanburg, SC SMSA	
Greenville County	$72,900
Pickens County	
Spartanburg County	
HUD FIELD OFFICE: ATLANTA AREA OFFICE	
Atlanta, GA SMSA	
Butts County	$74,900
Cherokee County	
Clayton County	
Cobb County	
DeKalb County	
Douglas County	
Fayette County	
Forsyth County	
Fulton County	
Gwinett County	
Henry County	
Newton County	
Paulding County	
Rockdale County	
Walton County	
HUD FIELD OFFICE: BIRMINGHAM AREA OFFICE	
Mobile, AL SMSA	
Baldwin County	$74,900
Mobile County	
Montgomery, AL SMSA	$74,900
Autauga County	
Elmore County	
Montgomery County	
HUD FIELD OFFICE: MEMPHIS SERVICE OFFICE	
Memphis, TN-AR-MS SMSA	
Shelby County	$74,900
Tipton County	
HUD FIELD OFFICE: JACKSON AREA OFFICE	
Memphis, TN-AR-MS SMSA: De Soto County	$74,900
HUD FIELD OFFICE: CORAL GABLES SERVICE OFFICE	
Ft. Lauderdale-Hollywood, FL SMSA: Broward County	$74,900
Miami, FL SMSA: Dade County	$74,900
West Palm Beach-Boca Raton, FL SMSA: Palm Beach County	$74,900
HUD FIELD OFFICE: TAMPA SERVICE OFFICE	
Sarasota, FL SMSA: Sarasota County	$74,900
Hillsborough County	$71,500
Pasco County	
Pinellas County	
Region V	
HUD FIELD OFFICE: MINNEAPOLIS-ST. PAUL AREA OFFICE	
Minneapolis-St. Paul, MN SMSA	
Anoka County	$74,900
Carver County	
Chisago County	
Dakota County	
Hennepin County	
Ramsey County	
Scott County	
Washington County	
Wright County	
St. Cloud, MN SMSA	
Benton County	$68,500
Sherburne County	
Stearns County	
HUD FIELD OFFICE: MILWAUKEE AREA OFFICE	
Minneapolis-St. Paul, MN SMSA St. Croix County	$74,900
Milwaukee, WI SMSA	
Milwaukee County	$73,500
Ozaukee County	
Washington County	
Waukesha County	
HUD FIELD OFFICE: CHICAGO AREA OFFICE	
Chicago, IL SMSA	
Cook County	$74,900
DuPage County	
Kane County	
Lake County	
McHenry County	
Will County	
St. Louis, MO-IL SMSA	
Clinton County, IL	$70,200
Madison County, IL	
Monroe County, IL	
St. Clair County, IL	
HUD FIELD OFFICE: DETROIT AREA OFFICE	
Detroit, MI SMSA	
Lapeer County	$74,900
Livingston County	
Macomb County	
Oakland County	
St. Clair County	
Wayne County	
HUD FIELD OFFICE: CLEVELAND SERVICE OFFICE	
Cleveland, OH SMSA	
Cuyahoga County	$74,900
Geauga County	
Lake County	
Medina County	
HUD FIELD OFFICE: COLUMBUS AREA OFFICE	
Columbus, OH SMSA	
Delaware County	$74,900
Fairfield County	
Franklin County	
Madison County	
Pickaway County	
Region VI	
HUD FIELD OFFICE: DALLAS AREA OFFICE	
Dallas-Ft. Worth, TX SMSA	
Collin County	$74,900
Dallas County	
Denton County	
Ellis County	
Kaufman County	
Rockwall County	
Sherman-Denison, TX SMSA: Grayson County	$74,900
HUD FIELD OFFICE: FORT WORTH SERVICE OFFICE	
Dallas-Ft. Worth, TX SMSA	
Hood County	$74,900
Johnson County	
Parker County	
Tarrant County	
Wise County	
HUD FIELD OFFICE: HOUSTON SERVICE OFFICE	
Houston, TX SMSA	
Brazoria County	$72,900
Ft. Bend County	
Harris County	
Liberty County	
Montgomery County	
Waller County	
HUD FIELD OFFICE: LUBBOCK SERVICE OFFICE	
Amarillo, TX SMSA	
Potter County	$68,500
Randall County	
Lubbock, TX SMSA: Lubbock County	$70,000
Midland, TX SMSA: Midland County	$70,000
HUD FIELD OFFICE: SAN ANTONIO AREA OFFICE	
Austin and San Antonio, TX SMSAS (Combined)	
Bexar County	$74,900
Comal County	
Guadalupe County	
Hays County	
Travis County	
Williamson County	
Corpus Christi, TX SMSA	
Nueces County	$70,000
San Patricio County	
HUD FIELD OFFICE: LITTLE ROCK AREA OFFICE	
Memphis, TN-AR-MS SMSA Crittenden County	$74,900
HUD FIELD OFFICE: OKLAHOMA CITY AREA OFFICE	
Oklahoma City, OK SMSA	
Canadian County	$68,000
Cleveland County	
McClain County	
Oklahoma County	
Pottawatomie County	
HUD FIELD OFFICE: NEW ORLEANS AREA OFFICE	
Baton Rouge and New Orleans, LA SMSAS (Combined)	
Ascension Parish	$74,900
East Baton Ruge Parish	
Jefferson Parish	
Livingston Parish	
Orleans Parish	
St Bernard Parish	
St. Tammany Parish	
West Baton Rouge Parish	
HUD FIELD OFFICE: SHREVEPORT SERVICE OFFICE	
Shreveport-Bossier, LA SMSA	
Bossier Parish	$74,900

UPDATING OF FHA SECTION 234(c) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

[Condominium units]

Market area designation and local jurisdictions	Mortgage limits (condominium)
Caddo Parish	
Webster Parish	
HUD FIELD OFFICE: ALBUQUERQUE SERVICE OFFICE	
Albuquerque, NM SMSA	
Bernalillo County	$74,900
Sandoval County	
HUD FIELD OFFICE: TULSA SERVICE OFFICE	
Tulsa, OK SMSA	
Creek County	$74,900
Mayes County	
Osage County	
Rogers County	
Tulsa County	
Wagoner County	
Region VII	
HUD FIELD OFFICE: KANSAS CITY AREA OFFICE	
Kansas City, MO-KS SMSA	
Cass County, MO	$74,900
Clay County, MO	
Jackson County, MO	
Platt County, MO	
Ray County, MO	
Johnson County, KS	
Wyandotte County, KS	
HUD FIELD OFFICE: ST LOUIS AREA OFFICE	
St. Louis, MO-IL SMSA	
St. Louis City	$70,200
Franklin County	
Jefferson County	
St. Charles County	
St. Louis County	
Region VIII	
HUD FIELD OFFICE: DENVER REGIONAL/AREA OFFICE	
Denver-Boulder, CO SMSA	
Adams County	$74,900
Arapahoe County	
Boulder County	
Denver County	
Douglas County	
Gilpin County	
Jefferson County	
State of Colorado	$71,800
All other metro and nonmetro areas	
State of Wyoming	$74,900
HUD FIELD OFFICE: HELENA SERVICE OFFICE	
State of Montana, SMSA and non-SMSA Areas	$74,900
HUD FIELD OFFICE: SALT LAKE CITY SERVICE OFFICE	
Salt Lake City-Ogden, UT SMSA	
Davis County	$74,900
Salt Lake County	
Tooele County	
Weber County	
Region IX	
HUD FIELD OFFICE: LOS ANGELES AREA OFFICE	
Los Angeles Area Office Metro and Nonmetro Areas	
Los Angeles County	$74,900

UPDATING OF FHA SECTION 234(c) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

[Condominium units]

Market area designation and local jurisdictions	Mortgage limits (condominium)
San Luis Obispo County	
Santa Barbara County	
Ventura County	
HUD FIELD OFFICE: SAN FRANCISCO AREA OFFICE	
San Francisco Area Office Metro and Nonmetro Areas	
Alameda County	$74,900
Contra Costa County	
Del Norte County	
Humboldt County	
Lake County	
Marin County	
Mendocino County	
Monterey County	
Napa County	
San Benito County	
San Francisco County	
San Mateo County	
Santa Clara County	
Santa Cruz County	
Solano County	
Sonoma County	
HUD FIELD OFFICE: FRESNO SERVICE OFFICE	
Fresno Service Office Metro and Nonmetro Areas	
Fresno County	$74,900
Kern County	
Kings County	
Madera County	
Mariposa County	
Merced County	
Stanislaus County	
Tulare County	
HUD FIELD OFFICE: SACRAMENTO SERVICE OFFICE	
Sacramento Service Office Metro and Nonmetro Areas	
Alpine County	$74,900
Amador County	
Butte County	
Calaveras County	
Colusa County	
El Dorado County	
Glenn County	
Lassen County	
Modoc County	
Nevada County	
Placer County	
Plumas County	
Sacramento County	
San Joaquin County	
Shasta County	
Sierra County	
Siskiyou County	
Sutter County	
Tehama County	
Trinity County	
Tuolumne County	
Yolo County	
Yuba County	
HUD FIELD OFFICE: SAN DIEGO SERVICE OFFICE	
San Diego Service Office Metro and Nonmetro Areas:	
Imperial County	$74,900
San Diego County	
HUD FIELD OFFICE: SANTA ANA SERVICE OFFICE	
Santa Ana Service office	
Metro Areas	$74,900
Orange County	
Riverside County	
San Bernardino County	
Nonmetro Areas	$74,900

UPDATING OF FHA SECTION 234(c) AND SECTION 214 AREA-WIDE MORTGAGE LIMITS—Continued

[Condominium units]

Market area designation and local jurisdictions	Mortgage limits (condominium)
Inyo County	
Mono County	
HUD FIELD OFFICE: LAS VEGAS SERVICE OFFICE	
Las Vegas, NV SMSA: Clark County	$74,900
State of Nevada—Nonmetro Areas	
Lincoln County	$74,900
Nye County (part)	
HUD FIELD OFFICE: RENO SERVICE OFFICE	
Reno, NV SMSA: Washoe County	$74,900
State of Nevada—Nonmetro Areas	
Carson City County	$74,900
Churchill County	
Douglas County	
Elko County	
Esmeralda County	
Eureka County	
Humboldt County	
Lander County	
Lyon County	
Mineral County	
Nye County (Part)	
Pershing County	
Storey County	
White Pine County	
HUD FIELD OFFICE: PHOENIX SERVICE OFFICE	
Phoenix, AZ SMSA: Maricopa County	$74,900
HUD FIELD OFFICE: TUCSON SERICE OFFICE	
Tucson, AZ SMSA: Pima County	$74,900
HUD FIELD OFFICE: HONOLULU AREA OFFICE	
State of Hawaii metro and nonmentro area	$112,350
Territory of Guam	$101,250
Region X	
HUD FIELD OFFICE: SEATTLE AREA OFFICE	
Richland-Kennewick and Yakima, WA SMSAS	
(Com) Yakima County	$72,000
Seattle-Everett, WA SMSA	
King County	$74,900
Snohomish County	
Tacoma, WA SMSA: Pierce County	$71,000
HUD FIELD OFFICE: PORTLAND AREA OFFICE	
Portland, or SMSA	
Clackamas County	$74,900
Multnomah County	
Washington County	
Clark County	
HUD FIELD OFFICE: ANCHORAGE AREA OFFICE	
Anchorage, AK SMSA: Anchorage Census Division	$112,350
State of Alaska—all Other Areas	106,000
HUD FIELD OFFICE: SPOKANE SERVICE OFFICE	
Richland-Kennewick and Yakima, WA SMSAS (Combined)	
Benton County	$72,000
Franklin County	
Spokane, WA SMSA: Spokane County	72,000
HUD FIELD OFFICE: BOISE SERVICE OFFICE	
Boise City, ID SMSA: Ada County	$74,900

Dated: March 25, 1983.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-9315 Filed 4-11-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-35774]

Classification of Public Lands for State Indemnity Selection; Colorado

Correction

In FR Doc. 83-6141 appearing on page 10132 in the issue of Thursday, March 10, 1983, make the following correction:

On page 10132, middle column, the line reading "**70.8 [Amended]** should be removed.

BILLING CODE 1505-01-M

[A-18103]

Arizona; Application for Issuance of Disclaimer of Interest to Lands in Arizona

April 4, 1983.

Notice is hereby given that the United States of America, pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), Section 315, 43 U.S.C. 1745(1976), does hereby give notice of its intention to disclaim all interest in the following described property, to-wit:

Gila and Salt River Meridian, Arizona

T. 14 S., R. 15 E.,
Sec. 35.

Beginning at the northeast corner of said Lot 1, from which point the northeast corner of said Section 35 bears S. 89°34'30" E. a distance of 1314.92 feet.

Thence S. 0°10'37" W. along the east line of said Lot 1 a distance of 1509.52 feet to a point of the north meander line of said Pantano Wash. Said point being the true point of beginning;

Thence continue S. 0°10'37" W. a distance of 804.98 feet to a point on said mid-line of Pantano Wash;

Thence N. 52°44'47" W. along said mid-line a distance of 22.88 feet;

Thence N. 46°37'23" W. along said mid-line a distance of 369.39 feet;

Thence N. 19°58'33" W. along said mid-line a distance of 74.18 feet;

Thence N. 41°41'20" W. along said mid-line a distance of 213.52 feet;

Thence N. 63°24'22" W. along said mid-line a distance of 66.44 feet;

Thence N. 49°22'35" W. along said mid-line a distance of 337.04 feet;

Thence N. 22°42'42" W. along said mid-line a distance of 132.70 feet;

Thence N. 40°45'56" W. along said mid-line a distance of 189.31 feet;

Thence N. 40°28'50" W. along said mid-line a distance of 44.18 feet;

Thence N. 48°02'36" W. along said mid-line a distance of 240.01 feet;

Thence N. 40°27'04" W. along said mid-line a distance of 83.65 feet;

Thence N. 51°53'15" W. along said mid-line a distance of 125.46 feet to a point which lies on a prolongation of the west line of said Lot 1;

Thence N. 0°18'17" E. along said prolongated line a distance of 227.56 feet to a point on the north meander line of said Pantano Wash from which point the northwest corner of said Lot 1 lies N. 0°18'17" E. a distance of 759.37 feet;

Thence S. 82°07'12" E. along said north meander line a distance of 64.59 feet;

Thence S. 65°53'57" E. along said line a distance of 244.81 feet;

Thence S. 45°28'00" E. along said line a distance of 72.89 feet;

Thence S. 71°08'14" E. along said line a distance of 264.54 feet;

Thence S. 39°14'35" E. along said line a distance of 331.45 feet;

Thence S. 63°24'21" E. along said line a distance of 575.75 feet to the true point of beginning.

Containing 16.31 acres.

After review of the official records, it is the position of the Bureau of Land Management that all of the land described above is found to lie between the meander line appearing on the official plat and the mid-line of Pantano Wash, which is considered to be non-navigable. Therefore the United States has issued patent to a fractional lot bounded by Pantano Wash.and there are no specific reservations in said patent, there exists no valid United States claim to land which might have been formed by accretion to said lot and there is no valid United States Claim to land within the bed of Pantano Wash in front of said lot.

Any person wishing to submit a protest or comments on the above dis claimer should do so in writing before the expiration of 90 days form the date of publication of this notice. If no protest(s) is received, the disclaimer will become effective on the date set out below.

Disclaimer of title and release of all interest of the United States shall issue on July 5, 1983.

Information concerning this land and the proposed disclaimer may be obtained from and the protest filed with State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-9542 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-84-M

California Desert District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 and 94-579 that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally Thursday, May 19 and Saturday, May 21, 1983, in the International Hotel Resort, International Room, 1800 E. Palm Canyon Drive, Palm Springs, California. The meetings will be held from 10 a.m. to 5 p.m. on Thursday, and from 8 a.m. to 3 p.m. on Saturday.

Target for discussion of the two-day session will be the 1983 Plan Amendment proposals to the California Desert Plan which was adopted in 1980, and final review and recommendations for the Escondido Project. Agenda items also include public comment received on 1982 Desert Plan Amendments, the draft Final Plan for the state-wide trail system for off-highway vehicles, Modoc-Washoe Stewardship Program, the California Desert Ranger Program, land tenure adjustment, and user education and communication on public lands.

A field trip is scheduled for Friday, May 20, which includes a tour of wind energy sites in the San Gorgonio Pass and several small tract lands. Transportation for this trip is provided for staff and Council members only. Public participants are invited to join the tour, but must provide their own transportation and meals.

The meeting is open to the public, with time allotted for public comment after each subject is presented. Statements may be filed in advance to Desert Advisory Council Chairman Clayton A. Record, Jr., Public Affairs Office, 1695 Spruce Street, Riverside, California 92507.

For further information and meeting confirmation contact the California Desert District, 1695 Spruce Street, Riverside, California (714) 351-6383.

Dated: April 4, 1983.

Gerald E. Hillier,

District Manager.

[FR Doc. 83-9547 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, U.S. Geological Survey Manual 220.2.3,

Conservation Division Supplement (U.S. Geological Survey Manual) 220.2.1 G, and Secretarial Orders 3071 and 3087, the following described lands are hereby revoked as the Wabuska Known Geothermal Resources Area, effective January 28, 1983:

(28) Nevada

Wabuska Known Geothermal Resources Area

Mount Diablo Meridian, Nevada

T. 15 N., R. 25 E.,
Secs. 9 through 17;
Secs. 20 through 24;
Secs. 26 through 29.

The revoked area described contains 11,520 acres, more or less.

The subject lands will be made available to the first qualified applicant under regulations appearing at 43 CFR Part 3210 beginning with the first calendar month following the date of this notice.

Dated: February 16, 1983.

Bill R. Lavelle,

Acting Minerals Manager, Western Region.

[FR Doc. 83-9539 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-MR-M

[OR 35951]

Realty Action—Sale; Public Land in Gilliam County, Oregon

The following described land has been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2743, 43 U.S.C. 1713), at no less than the appraised fair market value shown:

Parcel No. and legal description	Acreage	Value
1. T. 1 S., R. 21 E., Will. Mer., Sec. 10, NE¼NE¼	40	$4,500.00
2. T. 1 S., R. 22 E., Will. Mer., Sec. 29, SE¼NE¼	40	4,400.00

The sale will be held on June 15, 1983, 10:00 a.m. at the Gilliam County Courthouse, 221 South Oregon, Condon, Oregon 97823.

These parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal agency. There are no significant resource values which will be affected by this disposal and the sale of these parcels will allow agricultural development of suitable portions. There is legal access to both parcels. The sale is consistent with the BLM's planning for the land involved and the public interest would be served by offering this land for sale.

The terms and conditions applicable to the sale are:

1. A reservation for road rights-of-way will be incorporated into each patent in conjunction with the Gilliam County road network.

2. A reservation to the United States 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).

3. A reservation to the United States for all mineral rights (43 U.S.C. 1719).

4. The sale of these lands will be subject to all existing rights.

The above described land will be offered for sale by sealed and oral bids using competitive bidding procedures (43 CFR 2711.3–1). No bid will be accepted for less than the appraised value, and bids for a parcel must include all the land in the parcel. Federal law requires that individuals be 18 years of age or over and U.S. citizens, and corporations be subject to the laws of any State of the United States.

Bids must be made by the principal or his duly qualified agent, by either: (1) Sealed bids mailed or delivered to the Prineville District Office, or (2) oral bids made at the sale. Bids delivered or sent by mail must be received at the Bureau of Land Management, Prineville District Office, P.O. Box 550, Prineville, Oregon 97754, before 4:00 p.m., June 10, 1983, to be considered. Each sealed bid must be accompanied by 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 each bid. The sealed envelope must be marked in the lower left-hand corner as follows: "Public Sale Bid Parcel No. ———, Serial No. OR 35951. Sale held June 15, 1983."

If two or more envelopes are received containing valid bids of the same amount for the same parcel, the successful bid shall be determined by a drawing. The highest qualifying sealed bid on each parcel will determine the base of the oral bidding conducted the day of the sale. The highest bid price, either sealed or oral, will be the sale price. The successful bidder will be required to pay one-fifth the full sale price immediately at the close of the sale and the remainder within 30 days. Failure to submit the full sale price within 30 days shall cancel sale of the specific parcel and the bidder's deposit will be forfeited. All unsuccessful bids will be returned within 30 days of the sale date.

Any parcel not sold at the public auction will remain available for sale at the Prineville District Office at the appraised fair market value at the time of purchase.

Detailed information concerning the sale, including the planning documents, land report, environmental assessment, and fair market appraisal, is available for review at the Bureau of Land Management, Prineville District Office, at the above address.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Prineville District Manager, at the above address. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, the realty action will become the final determination of the Department of Interior.

Dated: April 4, 1983.

Gerald E. Magnuson,

District Manager.

[FR Doc. 83-9540 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Side-Looking Airborne Radar Image Products; Price Change

As a result of a pricing study by the Geological Survey, the prices of mosaic and strip film products from Side-Looking Airborne Radar imagery have been increased to allow for recovery of archiving and reproduction costs as well as reasonable recovery of some acquisition costs. Pricing according to fair market value practices is in agreement with Office of Management and Budget Circular A–25, which states in part, "Where federally owned resources or properties are leased or sold, a fair market value should be obtained."

Effective April 20, 1983, the prices of Side-Looking Airborne Radar image products will be as follows:

Product, scale, and size	Price	
	Print	Film
Mosaics 1:250,000 20" × 24"	$85	$100
Mosaics [1] 1:100,000 20" × 24"	$60	$85
Strip data [2] 1:400,000 5" × 28"	$30	$35

[1] Products are approximately the same physical size as the 1:250,000-scale image products, but they represent only one quarter of the area portrayed on 1:250,000-scale images.
[2] Strip data are continuous images at an approximate scale of 1:400,000. Whole rolls of the strip data, which contain 20-30 strips, are available at a 50-percent reduction in price.

Information on the products, their availability, and sale may be obtained from the following Geological Survey offices:

National Cartographic Information Center, U.S. Geological Survey, 507 National Center, Reston, VA. 22092, (703) 860–6045, (FTS) 928–6045

Eastern Mapping Center, NCIC–E, U.S. Geological Survey, 536 National Center, Reston, Va. 22092, (703) 860–6336, (FTS) 928–6336

Mid-Continent Mapping Center, NCIC–M, U.S. Geological Survey, 1400 Independence Road, Rolla, Mo. 65401, (314) 341–0851, (FTS) 277–0851

Rocky Mountain Mapping Center, NCIC–R, U.S. Geological Survey, Box 25046, Stop 504, Federal Center, Denver, Colo. 80225, (303) 234–2326, (FTS) 234–2326

Western Mapping Center, NCIC–W, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, Calif. 94025, (415) 323–8111, ext. 2427, (FTS) 467–2427

User Services, EROS Data Center, U.S. Geological Survey, Sioux Falls, S. Dak. 57198, (605) 594–6151, (FTS) 784–7151

Dated: April 6, 1983.

R. B. Southard,

Chief, National Mapping Division, Geological Survey.

[FR Doc. 83-9543 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-31-M

Minerals Management Service

Proposed Stipulation for Eastern Gulf of Mexico Outer Continental Shelf Lease Offering (November 1983)

SUMMARY: The Department of the Interior (DOI) and the Department of Defense (DOD) have been conducting consultations regarding joint use of the Eastern Gulf of Mexico. The goal of these consultations is to offer for lease the more than 58-million-acre planning area in such a manner as not to interfere with or to interrupt military defense training and testing missions. The Eastern Gulf is a major site for the Eglin Air Force Base flight training and testing operations. The major concern expressed by the Air Force regarding oil and gas activities in the area is the safety of life and property in this area. Because this is one of the largest and most significant areas used by the military for training and testing, oil and gas activities must be conducted in a manner compatible with such military use. A significant incompatibility could be a scattering of surface structures, i.e., platforms or rigs, throughout the area. In an effort to control the possible incompatibility, the DOI is proposing the following stipulation or Information to Lessees to be included in leases issued in the military impact zone for the lease offering in the Eastern Gulf of Mexico scheduled for November 1983.

* * * * *

Leases issued as a result of this lease offering will contain the following stipulation or Information to Lessees relative to possible interference with or interruption to Department of Defense activities:

The timing of placement and location of surface structures (rigs and platforms) within this area during the exploration state is subject to approval by the Secretary or his authorized officer after review of the lessee's Plans of Exploration. Prior to approval of the plan, the Secretary shall consult with the Commander, Armament Division, Eglin Air Force Base, Florida 32542. Siting of drilling rigs and platforms will not be approved if the result would possibly jeopardize the national defense mission. To avoid a scattering of surface structures throughout the area at any one given time, Plans of Exploration will be approved by the Secretary on a first-come, first-served basis. The intent is to consolidate the surface structures in a contiguous area no larger than 30 miles by 30 miles at any one given time. Therefore, the Plan of Exploration first approved by the Secretary may then become the focal point for approval of other plans. If the rigs that are cited in the plans submitted subsequent to the initial plan would possibly jeopardize military missions, the subsequent Plans of Exploration may be delayed until exploration in the area first approved is completed. This action would be repeated to allow for approval of all exploration plans submitted and would provide for consolidated location of structures or contiguous areas in which exploration can be safely accomplished without interruption to the Defense mission or endangerment of work crews and equipment. If it is in the interest of national security or defense, the lease may be suspended up to the end of its primary term with notification to the lessee by the Secretary. The term of the lease may be extended to cover the period of such suspension.

This proposed stipulation will apply to those tracts leased north of 26°30'N. latitude that lie within the military impact zone. Affected tracts will be designated in the Proposed Notice of Lease Offering.

DATE: Comments on the proposed Defense Stipulation must be received on or before 30 days after publication of this notice.

ADDRESSES: Send comments to—Chief, Offshore Leasing Management Division, Mail Stop 645, Minerals Management Service, U.S. Department of the Interior, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Chris Oynes at (202) 343–6906 or Sandy Seim at (202) 343–5121.

April 7, 1983.

Harold Doley,

Director, Minerals Management Service.

[FR Doc. 83-9644 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability of Studies and Notice of Public Meeting

The National Park Service has prepared a draft General Management Plan and Environmental Assessment for Piscataway Park. This draft plan has been prepared to direct future management and use of Piscataway Park in a manner that is consistent with its legislative purpose and NPS management objectives.

The draft plan includes: A description of the environment, a description of alternatives, an assessment of the environmental effects and consequences of each alternative.

A public meeting on this issue will be held on Thursday, April 21, 1983 at 7:30 p.m. in the Knights of Columbus Hall (formerly Accokeek Elementary School), Livingston Road, Accokeek, Maryland.

Written comments on the draft plan are invited and will be accepted until June 6, 1983. Written comments should be sent to: Superintendent, National Capital Parks—East, 1900 Anacostia Drive, SE., Washington, D.C. 20020.

Copies of the plans are available for reading at the following locations:

Superintendent, National Capital Parks—East, 1900 Anacostia Drive, SE., Washington, D.C. 20020, telephone (202–472–9227).

National Colonial Farm, Accokeek, Maryland 20607, telephone (301–283–2113).

Alice Ferguson Foundation/Hard Bargain Farm, Accokeek, Maryland 20607, telephone (301–292–5665).

Fort Washington Park, Fort Washington, Maryland 20744, telephone (301–292–2112).

Prince George's County Libraries:

Accokeek Branch, Oxon Hill Branch, Surratts-Clinton Branch.

Prince Charles County Libraries: Indian Head Branch, Bryans Roads Branch.

April 5, 1983.

Lowell Sturgill,

Acting Regional Director, National Capital Region.

[FR Doc. 83-9642 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service, Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: April 22, 1983, 7 p.m.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159 (717) 729–7135.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include discussion of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: March 30, 1983.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 83-9643 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-70-M

Availability of Plan of Operations and Environmental Analysis for the Purpose of Drilling Exploratory Production Wells; Tabco, Inc., Big Thicket National Preserve, Texas

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from TABCO, Incorporated, a Plan of Operations for the purpose of drilling exploratory production wells in the Lance Rosier Unit of Big Thicket National Preserve, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Big Thicket National Preserve, 8185 Eastex Freeway, Beaumont, Texas; the Jefferson County Courthouse, in Beaumont, Texas; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the documents are available from the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: March 31, 1983.

Jack Neckels,

Acting Regional Director, Southwest Region.

[FR Doc. 83-9640 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 1, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior Washington, DC 20243. Written comments should be submitted by April 27, 1983.

Bruce MacDougal,

Acting Chief of Registration, National Register.

ALABAMA

Lee County

Auburn, *U.S. Post Office*, 144 Tichenor Ave.

GEORGIA

Bibb County

Macon, *Riverside Cemetery*, 1301 Riverside Dr.

Coweta County

Newnan, *Greenville Street-LaGrange Street Historic District*, LaGrange, Ninnons, Greenville, Powell, Reese, Powell, and Buchanan Sts.

Lowndes County

Valdosta, *Converse-Dalton House*, 305 N. Patterson St.

KANSAS

Labette County

Chetopa vicinity, *Harmon Site*,

Montgomery County

Independence, *Booth Hotel*, 201–209 W. Main St.

Sheridan County

Studley vicinity, *Pratt, John Fenton, Ranch*, W of Studley on U.S. 24

KENTUCKY

Greenup County

South Portsmouth vicinity, *Lower Shawneetown*

Kenton County

South Ft. Mitchell, *Shinkle, Amos, Summer Residence*, U.S. 25

Lyon County

Eddyville, *Mamie S. Barrett (towboat)*, Eddy Creek Marina

Madison County

Bighill vicinity, *Indian Fort Mountain*,
Ruthton vicinity, *Bogie Circle*,

Mason County

Mays Lick vicinity, *Fox Farm*,
Minerva, *Bracken Baptist Church, CR 1235*

Meade County

Flaherty vicinity, *Clarkson House*, Clarkson Rd.

Oldham County

Louisville vicinity, *Taylor, Philip R., House*, Shuler Lane

Simpson County

Franklin vicinity, *Sinking Creek Cave System*,

MAINE

Kennebec County

Augusta, *Gannett, Guy P., House*, 184 State St.

Oxford County

Hartford vicinity, *Warren, David, House*, Off ME 140

South Paris, *Stone, Elisha F., House*, Gothic St.

Somerset County

North Anson, *Temples Historic District*, Madison Ave.

York County

Alfred, *Alfred Historic District*, U.S. 202, Kennebunk, and Saco Rds.

Buxton, *Elden's Store*, ME 22

York vicinity, *Breckinridge, Isabella, House*, Off U.S. 1

MASSACHUSETTS

Plymouth County

Rockland, *Rockland Almshouse*, 198 Spring St.

NEW MEXICO

Socorro County

Socorro vicinity, *San Felipe Pueblo Ruin*.

NEW YORK

Monroe County

Rochester, *Eastman Dental Dispensary*, 800 E. Main St.

PENNSYLVANIA

Philadelphia County

Philadelphia, *Equitable Trust Building*, 1405 Locust St.

TEXAS

McLennan County

Waco, *Hippodrome*, 724 Austin Ave.

[FR Doc. 83-9641 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Meeting

Pursuant to Executive Order 11769 and the Provisions of Section 10(a) (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on May 2 and 3, 1983 at the Pan American Health Organization Building, conference Room 'C'. The committee will discuss recently drafted research strategy papers in four A.I.D. program areas; Agriculture, Health, Population and Fuelwood.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to the extent the time available for the meeting permits. Dr. Erven J. Long, Coordinator, Research & University Relations, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. long, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (703) 235-8929.

Date: March 30, 1983.

Erven J. Long,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 83-9546 Filed 4-11-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-15048]

Motor Carriers; D & G Trucking Co., Inc.—Purchase Exemption—Shoemaker Trucking Company (Loren Wetzel) (Trustee-in-Bankruptcy)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior revew and approval under 49 U.S.C. 11343(a), the acquisition by D & G Trucking Co., Inc. (MC-134328) of a portion of the motor carrier operating rights of Shoemaker Trucking Company (MC-138875).

DATES: This exemption is effective on May 12, 1983. Petitions for reconsideration must be filed by May 2, 1983. Petitions for stay must be filed by April 22, 1983.

ADDRESSES: Send pleadings to:

(1) Motor Section, Room 2139 Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative David E. Wishney, P.O. Box 837, Boise, ID 83701.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7977.

SUPPLEMENTARY INFORMATION:

For further information, see the decision served in No. MC-F-15048. 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) 289-4357 in the DC Metropolitan area; or (800) 424-5403 toll-free outside the DC area.

Decided: April 5, 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.

[FR Doc. 83-9530 Filed 4-11-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finacne Applications

As indicated by the findings below, the Commission has approved the following applications filed underf 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human evironment 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.

For the following, please call Team 1 at 202-275-7992.

Volume No. OP1-FC-118

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC–FC–81322. By decision of April 4, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 1, approved the transfer to STATEWIDE TRANSFER, INC., of Sunnyside, CA, of Certificate No. MC–125561 and Sub-Nos. 1, 4 and 5 issued July 8, 1964, April 2, 1964, August 15, 1980, and February 25, 1982, respectively, and Sub-Nos. 6 and 7 issued June 17, 1982, respectively to SUNNYSIDE TRANSFER, INC., of Sunnyside, CA, authorizing the transportation (A) over specified regular routes, of general commodities, with exceptions, (1) between Grandview and Sunnyside, WA, over U.S. Hwy 410, restricted to (a) service which is auxiliary to, or supplemental of, rail service of the Union Pacifice Railroad Company, and (b) shipments received from or delivered to the railroad and which have received a prior or subsequent movement by rail, (2) between Yakima and Walla Walla, WA, and (3) between Kennewick and Yakima, WA, and (B) over irregular routes, of (1) general commodities with exceptions, (a) radially, between specified points in WA, restricted against service in Wapato, Toppenish, Yakima and Moxee City, WA, (b) between points in Benton, Franklin and Yakima Counties, WA, on the one hand, and, and, on the other, points in Clackamas, Multnomah and Washington Counties, OR, and (c) between points in Benton and Franklin Counties, WA, and Morrow and Umatilla Counties, OR, and (2) furniture, between Kennewick and Pasco, WA, on the one hand, and, on the other, points in ID, OR and WA. An application for temporary authority has been filed Representative: Jack R. Davis, 1200 IBM Bldg., Seattle, WA 98101.

MC–FC–81355. By decision of April 5, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to P & S TRUCKING COMPANY, INC., Millport, AL, of Permit No. MC–155771, issued February 2, 1982, to P & S TRUCKING, INC., Millport, AL, authorizing the transportation of (1) forest products, (2) lumber and wood products, and (3) pulp, paper and related products, between points in the U.S., under continuing contract(s) with Weyerhaeuser Company, of Columbus, Ms. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203.

Volume No. OP1–FC–119

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell. (Member Krock not participating.)

MC–FC–81286. By decision of March 31, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to LTC TRUCKING, INC., Homedale, ID, of Certificate No. MC–153311 (Sub-No. 1) F, issued June 8, 1981, to C & D TRANSPORT, INC., Homedale, ID, authorizing the transportation over irregular routes, of lumber and wood products, and rubber and plastic products, between points in ID, on the one hand, and, on the other, points in the U.S. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–161

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81332. By decision of April 5, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to Western States Energy, Inc., of Salt Lake City, UT, of Permit No. MC–160472, issued June 15, 1982, to Trojan Corporation, of Wolf Lake, IL, authorizing the transportation, of general commodities (except household goods), over irregular routes, between points in the U.S. (except AK and HI), under continuing contract(s) with (a) C–I–L Chemicals, Inc., of Plattsburgh, NY, (b) Cisco Corporation, of Nashville, IL, (c) Familian Sierra Craft, Inc., of Caldwell, ID, (d) International Minerals & Chem., of Des Plaines, IL, (e) Mid West Carbide Corporation, of Koekuk, IA, and (f) Nitrochem Energy Corp., of Rolling Meadows, IL. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY, 11375, (212)–263–2078.

Note.—An application for temporary authority has been filed.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–MCFC–146

Decided: April 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81213. By decision of April 1, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to RICHARD W. RUPERT AND DONALD H. RUPERT, A PARTNERSHIP, Clarion, PA of Certificate No. MC–123054 and Certificate No. MC–123054 (Sub–Nos. 4, 7, 8, 9, 10, 11, 13, 14, 16, 18, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34), issued April 28, 1961, August 26, 1965, June 3, 1968, March 6, 1969, March 6, 1970, June 14, 1971, August 24, 1971, August 25, 1975, December 2, 1976, April 14, 1978, August 8, 1979, October 10, 1979, June 15, 1979, May 9, 1980, August 4, 1980, July 21, 1980, June 13, 1980, August 4, 1980, February 13, 1981, March 9, 1981, March 9, 1981, August 3, 1981, April 17, 1981 and April 16, 1982, to R & H CORPORATION, Clarion, PA, authorizing the transporation of *specified commodities,* between specified points in the United States. Representative: William J. Lavelle, Esquire, 2310 Grant Building, Pittsburgh, PA 15219, (412) 471–1800.

MC–FC–81236. By decision of March 31, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 1 approved the transfer to RICHARD L. STOUT AND DARWIN K. STOUT, d.b.a S & H TRANSPORT, Murray, UT, of all of the authority in Certificates Nos. MC 160244 and MC 160244 Sub 1, both issued July 2, 1982, to RICHARD L. STOUT, d.b.a S & H TRANSPORT, Murray, UT, authorizing the transportation of (1) 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 (2) 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). Representative: Irene Warr, 311 South State St., Suite 280, Salt Lake City, UT 84111.

MC–FC–81281. By decision of April 1, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to CORPORATE COURIER, INC., of Westport, CT, of Certificate No. MC–155405, issued February 1, 1982, to CORPORATE EXPRESS, INC., of Westport, CT, authorizing the transportation of *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. Representative: Stephen Maggiola, 177 State St., Bridgeport, CT 06604.

MC–FC–81292. By decision April 1, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CRF Part 1181, Review Board Number 1 approved the transfer to JOE H. FREEMAN, of Missoula, MT, of Permit No. MC–147155, issued June 19, 1980, to FRANK B. TAGGART, d.b.a. TAGGART SYSTEMS, of Cody, WY, authorizing the transportation of *bentonite,* in bags,

from Greybull, WY, to Long Beach, Oxnard, Bakersfield, Healdsburg, Sacramento, Santa Maria, and Brawley, CA, under continuing contract(s) with Dresser Industries, Inc., of Houston, TX. Representative: William E. Seliski, P.O. Box 8255, Missoula, MT 59807.

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-FC-156

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81239. By decision of March 31, 1983 issued under 40 U.S.C. 10926 and the transfer rules at 49 C.F.R. part 1181, Review Board Number 2 approved the transfer to WALLS TRUCKING, INC. of Reynoldsville, PA, of Certificate No. MC-127459 Sub 1 issued June 28, 1966 to ROBERT L. EMERY, of Brookville, PA, authorizing the transportation over irregular routes of coal, from points in Elk and Jefferson Counties, PA to Gowanda, NY, and points in Erie County, NY. An application for temporary authority has been filed. Representative: Nicholas F. Lorenzo, Jr. 224 West Mahoning Street, Punxsutawney, PA 15767.

MC-FC-81296. By decision of March 31, 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 GERTSEN INTERSTATE SYSTEMS, INC., of Melrose Park, IL, of Certificate No. 21259 Sub 8X and the underlying Sub 2, and Sub 9 to GERTSEN CARTAGE CO., INC., of Melrose Park, IL, authorizing the transportation of (1) General commodities (except classes A and B explosives), between Chicago, IL, on the one hand, and, on the other, points in IA, IL, IN, KY, MI, MN, MO, NE, OH, TN, and WI, and (2) General commodities (except classes A and B explosives), between Chicago, IL, and points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: Anthony C. Vance, Suite 400, 4801 Massachusetts Ave., N.W., Washington, DC 20016.

MC-FC-81325. By decision of March 3, 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 D & J TRANSPORT, INC., of North Andover, MA of Certificate No. MC-95398 (Sub No. 1)X issued November 1, 1982 and its underlying authority set forth in MC-95398 issued March 25, 1959, to WM. B. KENT & SONS, INC., of North Andover, MA, authorizing the transportation of household goods, furniture and fixtures, between points in Essex and Middlesex Counties, MA, on the one hand, and, on the other, points in CT, ME, NH, NJ, NY, RI, and VT. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108.

[FR Doc. 83-9533 Filed 4-11-83; 8:45 am]
BILLING CODE 7035-01-M

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-No. 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: (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.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume OP2-MCF-160

MC-F-15208. REGAL TRANSPORTATION, INC., Purchase Exemption, Blue Ridge Transportation Company. Regal Transportation, Inc. (Regal) (MC-158129), and in turn, Andrew A. Corrado, who controls Regal, seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase of a portion of the operating rights of Blue Ridge Transportation Company (MC-159222 part (I)(1)(A)(d)), authorizing, over regular routes, the transportation of general commodities (with exceptions), between Youngstown, OH and Akron, OH. Regal is affiliated with Harshman—Industrial Cartage Co., Inc. (MC-119599). Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, OH 43215. Comments should refer to No. MC-F-15208.

Decided: April 5, 1983.

Volume OP3-MCF-148

MC-F-15178. D & N ENTERPRISES, INC., Purchase Exemption, Shoemaker Trucking Company (Loren Wetzel, Trustee-in-Bankruptcy). D & N Enterprises, Inc. (No. MC-145467), seeks an exemption from the requirements under section 11343 of prior regulatory approval for the purchase of a portion of the operating rights of Shoemaker Trucking Company (No. MC-138875 (Sub-No. 312)X paragraph 4, [which supersedes No. MC-138875 Sub-No. 1, parts 7 and 12]), authorizing generally the transportation of lumber and wood products and metal products, (1) between points in Ada County, ID, on the one hand, and, on the other, points in 15 specified States, and (2) between points in Los Angeles and Sonoma Counties, CA, and points in Washington County, OR. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representative David E. Wishney, P.O. Box 837, Boise ID 83701. Comments should refer to No. MC-F-15178.

Decided: April 6, 1983.

Volume OP4-MCF-210

MC-F-15161. VERNON G. SAWYER,Purchase Exemption, Sawyer Transport, Inc., (Nathan Yorke, Trustee-in-Bankruptcy). Vernon G. Sawyer, an individual, holding authority in No. MC-139843 seeks an exemption from the requirement under section 11343 of prior regulatory approval for acquisition of a portion of the operating rights of Sawyer Transport, Inc., (MC-123407). The pertinent authority provides for the transportation of (1) clay, concrete, glass or stone products, (2) lumber and wood products, pulp, paper and related products, and (3) petroleum, natural gas and their products, between specified counties or country equivalents, on the one hand, and, on the other, points in the coterminous United States. The sought authority corresponds with that portion of Sawyer Transport's operating rights contained in Certificate Nos. MC-123407 (Sub-No. 668)X: paragraphs 2, 19, 25, 45, 51, 65, 77, 79, 87, 93, 98, 101, 103, 107, 113, 116, 120, 141, 148, 158, 161, 164, 166, 172, 180, 182, 193, 197, 203, 214, 221, 224, 227, 229, 10, 20, 27, 59 73, 88, 12, 237, 243, 245, 262, 265, 268, 270, 274, 277, 331, 278, 295, 308, 310, 312, 316, 320, 6, 44, 15, 35, 135, 160, 202, 216, 272, and additional paragraphs 81, 168, 199, 204, 239, 288, 8, and 233 and the involved underlying authority. An application for temporary authority for the pertinent operating rights under 49 U.S.C. 11349 has been

filed and approved. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representative, D. Paul Stafford, Winkle, Wells & Stafford, Suite 1125—Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245. Comments should refer to No. MC–F–15161.

Decided: April 6, 1983.

Volume OP5–MCF–155

MC–F–15186. SUN FREIGHTWAYS, INC.,Purchase Exemption, Spector Red Ball, Inc. (Debtor-in-Possession). Sun Freightways, Inc., seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of a portion of the operating rights of Spector Red Ball, Inc., a motor carrier, (i.e., certificates Nos. MC–2229 (Sub-Nos. 81, 87, 88, 102, 104, 105, 110, 141, 179, 182, 197F, 203, 207F, 216F, and 278), which certificates, collectively, authorize the regular-route motor common carrier transportation or general commodities from and to various points and States located primarily west of the Mississippi River). An application for temporary authority has been filed. Send pleadings to: (1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representative, Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Comments should refer to No. MC–F–15188.

Decided: April 4, 1983.

[FR Doc. 83-8527 Filed 4-11-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the Federal Register on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the Federal Register on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the Federal Register on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–116

Decided: April 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160281 (Sub-1), filed March 25, 1983. Applicant: KAREN BUS CO., INC., 132 Lake Ave., Boonton, NJ 07005. Representative: Frank E. Walka (same address as applicant) (201) 263–2885. 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 166910, filed March 22, 1983. Applicant: BURNS & SON, Route 2, Box 287, Clovis, NM 88101. Representative: Melvin D. Burns (Same address as applicant) (505) 482–3617. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 167010, filed March 24, 1983. Applicant: GARY STEWART LEE, d.b.a. GARY LEE TRUCKING, 2609 W. 39th ST., Minneapolis, MN 55410. Representative: Gary Stewart Lee (same address as applicant) (612) 927–0995. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP1–120

Decided: April 5, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 161801, filed March 28, 1983. Applicant: EASTERN BUS COMPANY, INC., 1808 Kennedy Blvd., Jersey City, NJ 07305. Representative: Harold Sacks, 19 West 44th St., New York, NY 10036 (212)–869–0960. Transporting *passengers*, in charter and special operations beginning and ending at New York, NY and Jersey City, NJ, and extending to points in ME, MA, CT, VT, RI, NH, PA, DE, NY, NJ, MD, SC, NC, GA, VA, FL, KY, WV, TN, and DC.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167000, filed March 23, 1983. Applicant: KOBUSSEN BUSES, LTD., 2626 Cty. Tk. Q, Route 4, Kaukauna, WI 54130. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave., Neenah, WI 54956 (414)–722–2828. Transporting *passengers*, in charter and special operations, beginning and ending at points in WI, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167040, filed March 22, 1983. Applicant: M & A VALLEY TRANSPORTATION AND BUS CO., INC., 586 Valley Rd., West Orange, NJ 07052. Representative: James M. Burns, 1385 Main St., Suite 403, Springfield, MA 01103 (413) 781–8205. 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 167060, filed March 25, 1983. Applicant: FISHER BUS, INC., 260 Pleasant St., Somerset, MA 02726. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103 (413) 732–1136. 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.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–157

Decided: April 4, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 166932, filed March 10, 1983. Applicant: SUNTREK TOURS LTD., Kanzleistrasse 20, Zurich, Switzerland 8004. Representative: Daniel Hiltebrand, Suite 413, 165 O'Farell St., San Francisco, CA 94102, 415–398–0259. Transporting *passengers*, in special operations, beginning and ending at San Francisco, CA, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded special transportation.

MC 146172 (Sub-1), filed March 25, 1983. Applicant: UNIVERSAL COACHES, INC., 3833 Frenchmen St., New Orleans, LA 70122. Representative: Maxwell A. Howell, 2554 Massachusetts Ave. NW., Washington, D.C. 20008, 202 483–8633.Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 151172 (Sub-1), filed March 28, 1983. Applicant: EXECUTIVE COACH LEASING, INC., 4805 W. 96th St., Indianapolis, IN 46268. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655.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.

Volume No. OP2–159

Decided: April 5, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 148412 (Sub-10), filed March 24, 1983. Applicant: GRIBBLE TRUCKING, INC., R.D. 3, Rockwood, PA 15557. Representative: George Gross, Jr., 124 Lammert Dr., Glenshaw, PA 15116, 412–487–6533. 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 166833, filed March 15, 1983. Applicant: CONSOLIDATED TRANSPORTATION SYSTEMS, INC., 1700 S. Highland Ave., Baltimore, MD 21224. Representative: Ronald F. Rebbel, 1702 Chatsworth Court, Fallston, MD 21047 (301) 879–0875. 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), 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 167072 (Sub-1), filed March 28, 1983. Applicant: CARRELL CRANE & HEAVY HAULING, INC., 2015 South 18th St., Yakima, WA 98903. Representative: John P. Carrell (same address as applicant) 509–248–2928. 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 167102, filed March 28, 1983. Applicant: E. M. FREIGHT FORWARDERS, INC., Route 11 & Hayford Rd., Champlain, NY 12919. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167103, filed March 28, 1983. Applicant: LEBOKI TRUCKING, INC., 11077 North Vancouver Way, P.O. Box 17212, Portland, OR 97217. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312–263–2306. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–142

Decided: April 4, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 95864 (Sub-3), filed March 22, 1983. Applicant: PENN HIGHWAY TRANSIT CO., 825 East Chestnut St., Lancaster, PA 17602. Representative: Thomas W. Meredith, Jr. (same address as applicant) (717) 392–1983. Transporting *passengers*, in charter and special operations, between points in the U.S. (excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144885 (Sub-2) (A)), filed March 17, 1983. Applicant: JAIRO A. LOPEZ, d.b.a. TRICENTENNIAL LIMO-BUS, 162 Temple St., New Haven, CT 06510. Representative: Jairo A. Lopez, 2 Knox St., West Haven, CT 06516, (203) 562–9555. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 144885 (Sub-2 (B)), filed March 17, 1983. Applicant: JAIRO A. LOPEZ, d.b.a. TRICENTENNIAL LIMO-BUS, 162 Temple St., New Haven, CT 06510. Representative: Jairo A. Lopez, 2 Knox St., West Haven, CT 06516, (203) 562–9555. Over *regular routes*, transporting *passengers* (1) Between New Haven, CT,

and (a) La Guardia International Airport, and (b) Kennedy International Airport, New York, NY, over Interstate Hwy 95, and (2) Between New Haven, CT, and Newark International Airport, Newark, NJ.: From New Haven over Interstate Hwy 95 to the George Washington Bridge, at New York, NY, then over U.S. Hwy 46 to the New Jersey Turnpike/Interstate Hwy 95, and then over the New Jersey Turnpike/Interstate Hwy 95 to the Newark International Airport, and return over the same route, serving all intermediate points in (1) (a) and (b), and (2) above.

Note.—Applicant seeks to provide regular-route service only in interstate or foreign commerce.

MC 145845 (Sub-4), filed March 18, 1983. Applicant: RAYMOND W. PAYNE, d.b.a. PAYNE BUS SERVICE, Route 1, Box 122, Beaverdam, VA 23015. Representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Washington, DC 20036, (202) 296–2900. 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 146674 (Sub-13), filed March 21, 1983. Applicant: K.I.T. MOTOR EXPRESS, INC., P.O. Box 4004, Louisville, KY 40204. Representative: Robert R. Harris, 1730 M Street, N.W., Washington, DC 20036. 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 William A. Knight, d.b.a. Knight Brokers, of Louisville, KY.

MC 159204 (Sub-1), filed March 23, 1983. Applicant: ROBERT LOY, d.b.a. LOY BUS LINES, 4616 Central Ave. Pike, Knoxville, TN 37912. Representative: H. W. Asquith, 809–816 Ban of Knoxville Bldg., Knoxville, TN 37902, (615) 524–4621. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166904, filed March 18, 1983. Applicant: JAMES DAVID NOFTZ, P.O. Box 428, 789 Madison, Lafayette, OR 97127. Representative: Mervyn Noftz, Rt. 3, Box 3681, Red Bluff, CA 96080, (916) 529–3173. Transporting *food and other edible products and byproducts intended for human consumption* (except alconolic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle between points in the U.S. (except AK and HI).

For the following, please direct status calls to team 4 at 202–275–7669.

Volume. No. OP4–206.

Decided: April 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167077, filed March 25, 1983. Applicant: BUS LEASING, INC., 25530 Schoenherr Rd., Warren, MI 48089. Representative: George Omelencuk, (same address as applicant), (313) 773 1460. 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.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume. No. OP5–162

Decided: April 1, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 157008 (Sub-1), filed March 23, 1983. Applicant: CAMPTOWN, INC., 889 Frelinghysen Ave. Neward, NJ 07114. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–239–4610. 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 159209 (Sub-1), filed March 18, 1983. Applicant: POODLE BUS LINES CORP., 1112 Wikiup Drive, Santa Rosa, CA 95401. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055, 206–235–1111. 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 165628, filed March 18, 1983. Applicant: EASY RIDER COACH, INC., 1619 Bethleham Pike, Flourtown, PA 19031. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110, 215–561–1030. 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 166849 (B), filed March 17, 1983. Applicant: BERTIS CARLSON TRUCKING, INC., 1480 South Henderson Street, Galesburg, IL 61401. Representative: C. Don Weston, 120 North Dudley Street, Macomb, IL 61455. (309) 833–4473. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC–166849 (A) published in this same issue.

MC 166879, filed March 17, 1983. Applicant: D. AND E. CHARTER SERVICE, INC., R. R. #2 Box 160–A, Anderson, IN 46011. Representative: John M. Blevins, 205 West 8th Street, Anderson, IN 46016, 317–649–9201. Transporting *passengers*, in charter and special operations, beginning and ending at points in Madison County, IN, and extending to points in the U.S.

Note.—Applicant also seeks to provide privately-funded charter and special transportation.

MC 167009, filed March 24, 1983. Applicant: GREEN RIVER TRANSPORT, INC., Rt. 2, Box 83, Searcy, AR 72143. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, 817–457–0804. 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 167019, filed March 24, 1983. Applicant: CONTINENTAL TRAFFIC SERVICE, INC., 22 North Front St., Memphis, TN 38103. Representative: Fred F. Rushing (same address as applicant), 901–525–0747. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167048, filed March 24, 1983.Applicant: J. D. ROBINSON d.b.a., INDIAN TRAILS 3 Clarkesville St. Cornelia, GA 30531 Representative: James E. Cornwell, Jr., 628 S. Big A Road, P.O. Box 549 Toccoa, GA 30577, 404–886–9451. Transporting *passengers*, in charter and special operations, beginning and ending at points in Hebersham County, GA and extending to points in the U.S. (except HI).

Note: Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–158

Decided: March 30, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 166758, filed March 14, 1983. Applicant: PENRAY INC., 537 Northern Pkwy., Ridgewood, NJ 07450. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ

08904. 201–572–5551. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP5–160

Decided: March 31, 1983.
By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 8738 (Sub-1), filed March 23, 1983. Applicant: GREENE COACH COMPANY, INC., 126 Bohannon Ave., Greenville, TN 37743. Representative: H. W. Asquith, 809–816 Bank of Knoxville Bldg., Knoxville, TN 37902. 615–524–4621. 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 166938, filed March 21, 1983. Applicant: ROBERT P. SMITH, d.b.a. SOS TRANSPORTATION, P.O. Box 2313, 1936 Fairway Dr., Arnold, CA 95223. Representative: Robert Paul Smith, (Same address as applicant), 209–795–3140. Transporting *food and other edible products and by products, intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166948, filed March 22, 1983. Applicant: LOUIS H. TELLER, d.b.a. TELLER TRUCKING, 2727 Duranes Road NW, Albuquerque, NM 87104. Representative: James C. Ash, 2524 Vermont NE, Albuquerque, NM 87110, 505–298–7511. 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 166949, filed March 22, 1983. Applicant: WILLIE HAMM, d.b.a. SUNRISE BUS & TRUCK RENTAL INC., 5519 Kansas Ave., N.W., Washington, DC 20011. Representative: Willie Hamm, (same address as applicant), 202–882–6588. Transporting *passengers*, in charter and special operations, beginning and ending at points in Montgomery and Prince Georges Counties, MD, Arlington and Alexandria Counties, VA and DC and extending to points in the U.S. (except AK and HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 166958, filed March 22, 1983. Applicant: MAYERS INC., 118 W. 5th St., S., Melrose, MN 56352. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, 612–340–0808. Transporting *passengers* in charter and special operations, between point in U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 166968, filed March 22, 1983. Applicant: INLAND TRANSPORT INTERNATIONAL, INC., 195 Claremont Ave., Suite 212, Long Beach, CA 90803. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, 202–785–0024. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166999, filed March 22, 1983. Applicant: DAVID A. WILSON d.b.a., WILSON & ASSOCIATES, P.O. Box 1285, Mesquite, TX 75149. Representative: David A. Wilson, (same address as applicant), 817–261–1261. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI.)

[FR Doc. 83-9523 Filed 4-11-83; 8:45 am]
BILLING CODE 7035-01-M

[Decision Volume No. OP4–208]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior To Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

Agatha L. Mergenovich,
Secretary.

Note.—Please direct status inquiries to Team 4 at (202) 275–7669.

MC 163137 (Sub-2) (republication) filed December 3, 1982; published in the **Federal Register** issue of December 20, 1983; and republished this issue. Applicant: CABLE TRUCKING SERVICE, P.O. Box 2204, Highway 69 ByPass South, McAlester, OK 74501. Representative: Lew Gravitt, P.O. Box 53567, Oklahoma City, OK 73152, Phone: 405–524–2268. In a decision, by the Commission, Review Board #1, decided February 28, 1983, and finds that performance by applicant to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *mercer commodities* between points in Oklahoma, Texas, Louisiana, and Kansas, will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to broaden Commodity description to Mercer Commodities.

MC 164536 (republication) filed November 3, 1982; published in the **Federal Register** issue of November 22, 1982; and republished this issue. Applicant: ARNOLD PLAISANT AND THOMAS E. KUTTASY, d.b.a. P AND K EXPRESS, 98 Frelinghuyser, Avenue, Newark, New Jersey 07714. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, New York 10048, 212–466–0220. In a decision, by the Commission, Review Board Number 1, decided March 11, 1983, and finds that performance by Applicant to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives and household goods), between points in New Jersey and New York, on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, Virginia, South Carolina, and the District of Columbia, will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include "Maryland" in the territorial description.

MC 164816 (republication) filed November 22, 1982; published in the **Federal Register** issue of December 10, 1982; and republished this issue. Applicant: JAMES HOLSTEIN, d.b.a. JAMES TRANSPORT, 1090 West Street, Hollister, CA 95023. Representative: M. Doug Wood, P.O. Box 5606, 201 West Broadway, N. Little Rock, AR 72119, (501) 376–3700. In a decision, by the Commission, Review Board #2, decided March 16, 1983, and finds that performance by applicant to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting (1) *metal products;* and (2) *such commodities as are dealt in by dealers of antiques,* between points in California, on the one hand, and, on the other, points in Wisconsin; and (3) *lumber and wood products,* between points in California, on the one hand, and, on the other, points in the United States in and west of Wisconsin, Illinois, Missouri, Arkansas, and Louisiana, will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include "such commodities as are dealt in by dealers of antiques".

[FR Doc. 83-0528 Filed 4-11-83; 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); Feight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contact 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 gounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

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 contact." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-156

Decided: April 4, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 54202 (Sub-4), filed March 22, 1983. Applicant: V. SENG TEAMING CO., 600 N. Thomas Dr., Bensenville, IL 60106. Representative: Bernard J. Kompare, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, 312-283-1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in, AL, AR, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, ND, NE, OH, OK, SD, TN, TX, and WI.

MC 144142 (Sub-1), filed March 18, 1983. Applicant: EBONY MESSENGER SERVICE, INC., 572 South 21st St., Irvington, NJ 07111. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MA, MD, NC, NJ, NY, PA, VA, WV, and DC.

MC 155942 (Sub-1), filed March 21, 1983. Applicant: WILLIAM M. LAWSON, d.b.a OVERLAND CONSTRUCTION SERVICES, 28634 Hamden, Madison Heights, MI 48071. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084, 313-649-6650. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), under continuing contract(s) with Floyd Charcoal Company, of Plymouth, MI.

MC 156503 (Sub-1), filed March 17, 1983. Applicant: WILLIAM J. TEMAAT, 615 Parkview, Oakley, KS 67748. Representative: Clyde N. Christey, KS. Credit Union Bldg., 1010 Tyler, Suite

110-L, Topeka, KS 66612, 913-233-8629. Transporting *food and related products*, between Omaha, NE, and Denver, CO.

MC 166682, filed March 7, 1983. Applicant: HAROLD FRAZIER, d.b.a. HAROLD FRAZIER TRUCKING, 877 N.E. Birchwood Drive, Hillsboro, OR 97123. Representative: Harold Frazier (same address as applicant), 503-648-0135. 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 Cascade West Transportation Brokers, of Lake Oswego, OR.

Vol. No. OP2-158

Decided: April 5, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 152942 (Sub-2), filed March 22, 1983. Applicant: TOGO TRUCKING CO., Route 3, St. Joseph, MO 64505. Representative: James H. Counts, 320 Robidoux Center, St. Joseph, MO 64501, 816-232-8411. Transporting *bricks*, between Kansas City, MO, and points in OK, under continuing contract(s) with Quality Sand and Materials Co., Inc., of Independence, MO.

MC 163232 (Sub-1), filed March 15, 1983. Applicant: VERMONT WILSON LIMITED, 156 Porter Place, Rutland, VT 05701. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641, (802) 476-6671. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of overhead garage doors, bettwen points in the U.S., under continuing contracts with Clopay Corporation, of Ludlow, VT.

MC 165882, filed March 8, 1983. Applicant: EARLE BLEDSOE TRUCKING, 206 Lorraine Ave., Fredericksburg, VA 22401. Representative: Earle L. Bledsoe (same address as applicant) (703) 898-0663. Transporting *coal cinders*, between points in Charles County, MD, on the one hand, and, on the other, Fredericksburg, VA.

MC 166772, filed March 15, 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) (301) 833-5580. Transporting *horses*, (other than ordinary), 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.

MC 166802, filed March 15, 1983. Applicant: MARCELL'S GARAGE, Mosler & Bender Ave., Hamilton, OH 45011. Representative: William Marcell Burchfield (same address as applicant) (513) 867-8889. Transporting *motor behicle*, between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166832, filed March 15, 1983. Applicant: R. C. THOMASON, Hwy 41 South, Dalton, GA 30720. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20423, (202) 347-8862. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of carpeting, between points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167043, filed March 22, 1983. Applicant: FRED C. MEYERS, d.b.a. F. MEYERS TRUCKING, 208 Crawford, Copper City, MI 49917. Representative: Fred C. Meyers (same address as applicant), 906-337-3354. Transporting *copper scrap and copper oxide*, between points in the U.S. (except AK and HI).

MC 167072, filed March 28, 1983. Applicant: CARRELL CRANE & HEAVY HAULING, INC., 2015 South 18th St., Yakima, WA 98903. Representative: John P. Carrell (same address as applicant), 509-248-2928. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY.

For the following, please direct stautus calls to Team 1 at 202-275-7992.

Volume No. OP1-115

Decided: April 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 112520 (Sub-400), filed February 24, 1983. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Thomas F. Panebianco (same address as applicant) (904) 576-1221. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 126091 (Sub-29), filed March 24, 1983. Applicant: FRALEY & SCHILLING, INC., General Delivery, Rushville, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *metal products and machinery*, between Indianapolis, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159221 (Sub-3), filed March 24, 1983. Applicant: S.K.T., 623 10th St. NE, Minot, ND 58701. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375, (212) 263-2078. Transporting *lumber and lumber products*, between points in CA, ID, MT, OR and WA, on the one hand, and, on the other, points in AR, CA, CO, IA, ID, KS, MN, MO, MT, ND, NE, OR, SD, TX, UT, WA, WI and WY.

MC 164521, filed March 23, 1983. Applicant: RING TRUCKING INCORPORATED, 801 Caminito Del Mar, Carlsbad, CA 92008. Representative: Ronald V. Meeks, 2924 North 24th Ave., Phoenix, AZ 85015, (602) 253-2700. Transporting *transportation equipment*, between points in San Diego County, CA, on the one hand, and, on the other, points in the U.S. (except AK, AR, HI, ID, ME, NE, ND and SD).

MC 167050, filed March 25, 1983. Applicant: DONALD A. BARRETT AND MELDON STANDRIDGE, d.b.a. HUNTSVILLE PIGGYBACK TRUCKING SERVICE, 514 Factory St., Huntsville, AL 35803. Representative: Donald A. Barrett (same address as applicant) (205) 883-2238. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, on the one hand, and, on the other, points in GA, MS, TN and AL.

Volume No. OP1-117

Decided: April 5, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 156800 (Sub-7), filed March 3, 1983. and previously noticed in FR issue of March 21, 1983. Applicant: SEABOARD EXPRESS, INC. 565 Plank Rd., Waterbury, CT 06705. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344-8030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—The purpose of this republication is to clarify the territory description.

MC 166851, filed March 25, 1983. Applicant: NICHOLS CONSTRUCTION CORPORATION 2865 Mason Street, P.O. Box 2750, Baton Rouge, LA 70821. Representative: John Schwab, 617 North Blvd., P.O. Box 3036, Baton Rouge, LA 70821, (504) 387-0511. Transporting *construction materials, equipment and supplies, machinery, metal products and those commodities which because of their size and weight require special*

handling or equipment between points in AL, FL, GA, LA, MS, and TX.

Volume No. OP1–121

Decided: April 5, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 61440 (Sub-224), filed March 14, 1983. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same address as applicant), (405) 840–7579. 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 Kendavis International, Inc., and it's subsidiaries, of Fort Worth, TX.

MC 61440 (Sub-225), filed March 21, 1983. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same address as applicant), (405) 840–7579. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 83430 (Sub-21), filed March 31, 1983. Applicant: ONEIDA MOTOR FREIGHT, INC., Commercial Ave., P.O. Box 235, Carlstadt, NJ 07072–0235. Representative: Zoe Ann Pace, 387 Park Ave. South, New York, NY 10016, (212) 532–1800. 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 96840 (Sub-3), filed March 28, 1983. Applicant: I. E. MILLER OF EUNICE, INC., P.O. Box 472, Eunice, LA 70535. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068, (713) 537–8156. Transporting (1) *Mercer commodities*, and (2) *earth-drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, or used in, or in connection with: (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between (1) points in TX, OK, AR, LA and MS, on the one hand, and, on the other, points in AL, FL, TN, NM, CO and WY, and (2) points in NM, CO, WY, AL, GA and TN.

MC 96891 (Sub-7), filed March 28, 1983. Applicant: ALLSTATE TRUCKING, INC., Bolack Blvd., P.O. Box 1936, Farmington, NM 87401. Representative: James E. Snead, 215 Lincoln Ave., P.O. Box 2228, Santa Fe, NM 87501, (505) 982–2691. Transporting *frac sand and cement*, between points in NM, AZ, UT, CO and TX.

MC 134820 (Sub-16), filed March 21, 1983. Applicant: R.S. ALBRIGHT, INC., P.O. Box 81025, 833 S. First St., Kent, WA 98108. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101, (206) 783–2243. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 148541 (Sub-4), filed March 23, 1983. Applicant: M.P.I. CORPORATION, R.D. 8, P.O. Box 198, Bridgeton, NJ 08302. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151381 (Sub-2), filed March 22, 1983. Applicant: SUNBELT FREIGHT, division of SUNBELT HOLDING CORPORATION, 5520 West Channel Rd., Catoosa, OK 74015. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Forth St., Tulsa, OK 74103, (918) 583–9000. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163381, filed March 29, 1983. Applicant: ALABAMA FOOD SERVICE, INC., 315 North McDonough St., Montgomery, AL 36197. Representative: J. Douglas Harris, 200 South Lawrence St., Montgomery, AL 36104, (205) 265–0251. Transporting *petroleum, chemicals and related products*, and *food and related products*, between points in AL, GA and FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163441 (Sub-1), filed March 31, 1983. Applicant: PRESTIGE DELIVERY, INC., Route 8, Box 432, Statesville, NC 28677. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893–4924. Transporting *such commodities* as are dealt in by furniture and department stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Edgar B. Home Furnishing Center, a division of Broyhill, Inc., of Clemmons, NC.

MC 166310, filed March 21, 1983. Applicant: PIONEER EXPRESS, INC., 3359 Cazassa St., P.O. Box 16489, Memphis, TN 38186–0489. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *such commodities* as are dealt in or used by manufacturers of plastic products, between points in Alcorn County, MS and Los Angeles CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166890, filed March 18, 1983. Applicant: SNYDER INDUSTRIES, INC., P.O. Box 4583, Lincoln, NE 68504. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501, (402) 476–1144. Transporting *general commodities* (except classes A and B explosives, house goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 166931, filed March 24, 1983. Applicant: GEIST TRUCKING, INC., 1918 4th Ave. N., Lewistown, ID 83501. Representative: Clyde V. Geist, 1020 22nd Ave., Clarkston, WA 99403, (509) 758–2002. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WA, ID, OR, CA, MT, UT, NV, AZ and NM.

MC 166971, filed March 23, 1983. Applicant: WILLIAM LICKLY, d.b.a. L & L CONTRACT CARRIER, 508 Sycamore, Americus, KS 66835. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite, 110–L, Topeka, KS 66612, (913) 233–9629. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Yoplait U.S.A., Inc., of Minneapolis, MN.

MC 167091, filed March 28 1983. Applicant: JOHNSON BROS. TRUCKING, INC., 201 5th Ave., SE., Waseca, MN 56093. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *clay, concrete, glass or stone products*, between points in Brown, Blue Earth, Le Sueur, Nicollet, Renville, Sibley, Steele, and Waseca Counties, MN, on the one hand, and, on the other, points in IA and WI.

MC 167121, filed March 28, 1983. Applicant: GRACO CHILDREN'S PRODUCTS, INC., truck division, P.O. Box 100, Pennsylvania Route 23, Elverson, PA 19520. Representative: Jack

Cribbs (same address as applicant), (215) 286–5951. 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 Evergreen Marine Corporation, of New York, NY.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–143

Decided: April 4, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 81835 (Sub-12), filed March 21, 1983. Applicant: MONIOWCZAK TRANSIT CO., P.O. Box 235, Escanaba, MI 49829. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685, (616) 941–5313. Transporting *pulp, paper and related products*, between points in the Upper Peninsula of MI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 139154 (Sub-7), filed March 21, 1983. Applicant: RICHARDS TRANSPORT, LTD., 1155 McKay St., Regina, Saskatchewan, Canada S4N 4X9. Representative: Stephen F. Grinnell, 121 S. Eighth St., 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *lumber and wood products*, between the ports of entry on the international boundary line between the United States and Canada, in MN, MT, and ND, on the one hand, and, on the other, points in MN, MT, ND, SD, and WY.

MC 144615 (Sub-2), filed March 21, 1983. Applicant: CARLOS J. STILWELL, d.b.a. STILWELL TRUCK SERVICE, Detroit, IL 62332. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL and MO, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MI, MO, MN, MS, NE, OH, OK, PA, TN, TX, and WI.

MC 162005, filed March 21, 1983. Applicant: MORRIS THOMPSON, d.b.a. MORRIS THOMPSON TRUCKING, Box 43, Route No. 3, Tecumseh, OK 74873. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *metal products*, between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166905, filed March 21, 1983. Applicant: CHEAM TRANSPORT LTD., P.O. Box 518, Abbotsford, B.C., Canada V2S 5Z5. Representative: Michael D. Duppenthaler 211 S. Washington St., Seattle, Wa 98104, (206) 622–3220. Transporting *clay, concrete or stone products*, between points in the U.S., under continuing contract(s) with Pozzolanic International Ltd. of Vancouver, B.C. Canada and Valley Rite-Mix Ltd. of Abbotsford, B.C., Canada.

MC 166914, filed March 21, 1983. Applicant: DATA SALES CO., 12100 Riverwood Dr., Burnsville, MN 55337. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *electronic data processing equipment*, between points in the U.S. (except AK and HI).

MC 166915 filed March 21, 1983. Applicant: G&L MOVING & STORAGE CORP. d.b.a. SOUTH FLORIDA VAN LINE, 231 W. 36th St., Hialeah, FL 33012. Representative: Richard B. Austin 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166, (305) 592–0036. Transporting *household goods*, between points in FL, on the one hand, and, on the other, points in AL, AZ, CA, LA, MS, NM, and TX.

Vol. No. OP3–145

Decided: March 18, 1983.

Bu the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 159224 (Sub-1), filed March 1, 1983. Applicant: HENRY'S VAN SERVICE, INC., Route 206, Tabernacle, NJ 08088. Representative: Martin S. Eittin, 905 N. Kings Highway, Cherry Hill, NJ 08034, (609) 667–6440. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Vol. No. OP5–157

Decided: March 30, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 155118 (Sub-14), filed March 15, 1983. Applicant: T.D.S. TRANSPORTATION, 1700 S. Wolf Rd., Des Plaines, IL 60018. Representative: R.T. Krubeck (same address as applicant.), (312) 298–8800. 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: Toy King Distributors, of Orlando, FL; U.S. Freight Forwarder Co., Inc., Of Memphis, TN; Plastic Sales & Mfg. Co., Inc., of Kansas City, MO; Truck Brokers, Inc., of Bethany, OK; and North States Industries, Inc., of Minneapolis, MN.

MC 156908 (Sub-2), filed March 18, 1983. Applicant: AMTRANS, INC., P.O. Box 04704, Milwaukee, WI 53204. Representative: William P. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *containers*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of containers.

MC 166368, filed March 22, 1983. Applicant: BROWN CHEMICAL CO., INC., Box 427, Junction Hwys 6 and 61, Imperial, NE 69033. Representative: Lavern R. Holdeman, 1610 South 70th Suite 200, Linclon, NE 68506, 402–488–0985. Transporting *fertilizer and fertilizer ingredients*, between points in Woodward County, OK, on the one hand, and, on the other, points in Chase County, NE.

MC 166808, filed March 18, 1983. Applicant: DUANE WENTZ, d.b.a. D&D MOBILE HOME TRANSPORTING, East 7215 Rutter, Spokane, WA 99206. Representative: Boyd Hartman, 1750–112th Ave., N.E., Suite B–223, Bellevue, WA 98004, 206–453–0312. Transporting *mobile homes*, between points in WA, OR, ID, and MT.

MC 166918, filed March 21, 1983. Applicant: COMPETITIVE HOME DELIVERY SERVICE, INC., d.b.a. COMPETITIVE DELIVERY SERVICE, 15551 Del Amo, Tustin, CA 92680. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *furniture and fixtures*, between points in Santa Barbara, Ventura, Kern, Los Angeles, Orange, Riverside, San Bernardino, Imperial and San Diego Counties, CA.

MC 166929, filed March 22, 1983. Applicant: LAYNE BROS., INC., 1352 South Dixie, Radcliff, KY 40160. Representative: Herbert D. Liebman 403 West Main Street, P.O. Box 478, Frankfort, KY 40602, 1–502–875–3493. Transporting *mobile homes*, between points in KY, TN, IN, OH, and WV.

MC 166939, filed March 21, 1983. Applicant: DIAMOND TRUCK LEASING CORP., 174 Cabot Street, West Babylon, NY 11704. Representative: Arthur J. Piken, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, and points in Nassau and Suffolk Counties, NY, on the one hand, and, on the other, points in NY, NJ, PA, DE, MD, OH, ME, NH, VT, MA, CT, RI, and DC.

Volume No. OP5–159

Decided: March 31, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 3328 (Sub-4), filed March 22, 1983. Applicant: A. D. McMULLEN, INC., 640 R State Rd., North Dartmouth, MA 02747. Representative: Lloyd F. Morea (same address as applicant), 617–997–0097.Transporting *furniture and fixtures*, between points in the U.S. (except AK, HI, ID, MT, ND, OR, SD and WY).

MC 123329 (Sub-64), filed March 23, 1983. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403, 406–452–6415. Transporting *commodities in bulk*, between ports of entry on the international boundary line between the U.S. and Canada on the one hand, and, on the other, points in the U.S. (Except HI).

MC 142619 (Sub-8), filed March 21, 1983. Applicant: DASH TRANSPORTATION, INC., P.O. Box 221, Bloomingdale, IL 60108. Representative: Edward J. Kiley, 1730 M St., N.W., 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. under continuing contract(s) with Diebold Incorporated of Bedford Park, IL.

MC 147348 (Sub-20), filed March 24, 1983. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201, 501–375–3022. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, MO, TN, MS, LA and TX.

MC 161908, filed March 24, 1983. Applicant: MICHAEL A. PONTO d.b.a. PONTO TRANSPORTATION, 571 Julius Dr., Appleton, WI 54911. Representative: William F. Mix, 21A Muzzey St., Lexington, MA 02173, 617–661–7305. 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 JanSport, Inc. of Appleton, WI.

MC 164538 (Sub-1), filed March 23, 1983. Applicant: ASSURANCE TRANSPORTATION, INC., 3813 Crater Lake Hwy., Medford, OR 97501. Representative: Russell P. Engle, (same address as applicant), 503–773–5837. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. under continuing contract(s) with R & R Truck Brokers, Inc. of Central Point, OR.

MC 166988, filed March 22, 1983. Applicant: GEORGE C. MILLER d.b.a. GCM TRUCKING, R.D. #1, Box 106, Acme, PA 15610. Representative: Richard A. Kovach, Terry Way & Rte. 981, R.D. #1, Latrobe, PA 15650, 412–537–5535. 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 Beckwith Machinery Co. of North Versailles, PA.

Volume No. OP5–161

Decided: April 1, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 41098 (Sub-100), filed March 24, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, 202–833–8884. Transporting *household goods* between points in the U.S. under continuing contract(s) with Combined Insurance Company of America of Northbrook, IL and its affiliates Combined International Corp; Ryan Insurance Group; Rollin, Brudick & Hunter; and Union Fidelity Insurance Co.

MC 145789 (Sub-2), filed March 18, 1983. Applicant: SWOPE BOAT REPAIR AND TRANSIT COMPANY, INC., Route 1, Lexington Road, Winchester, KY 40391. Representative: Herbert D. Liebman, 403 West Main St., P.O. Box 478, Frankfort, KY 40602, 502–875–3493. Transporting *boats* between points in the U.S. (except AK and HI).

MC 152658 (Sub-2), filed March 23, 1983. Applicant: HUCKS PIGGYBACK SERVICE, INC., 610 Atando Ave., Charlotte, NC 28206. Representative: Joseph L. Steinfeld, Jr., 915 Pennsylvania Bldg, 425 13th St., N.W., Washington, D.C. 20004, 202–737–1030. 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 Southern Railway System of Charlotte, NC.

MC 166849 (A), filed March 17, 1983. Applicant: BERTIS CARLSON TRUCKING, INC., 1480 South Henderson Street, Galesburg, IL 61401. Representative: C. Don Weston, 120 North Dudley Street, Macomb, IL 61455, (309) 833–4473. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk, between points in Knox County, IL, Jones and Story Counties, IA, Shelby County, AL, Tulare County, CA, Finney County, KS, Middlesex County, MA, Jackson and Lafayette Counties, MO, Scotland County, NC, Lebanon County, PA, Comal and Caldwell Counties, TX, Wood County, WV, Jefferson County, WI and Huston County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC–166849 (B) published in this same issue.

MC 167028, filed March 22, 1983. Applicant: PRUITT TRANSFER, INC., P.O. Box 476, Lebanon, OR 97355. Representative: Lawrence V. Smart, Jr., 419 N.W., 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in OR, WA, ID, MT, NV, CA and UT.

Volume No. OP5–164

Decided: April 1, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 155139 (Sub-1), filed February 28, 1983. Applicant: KINGS EXPRESS, INC., 600 Dabney Dr., Henderson, NC 27536. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, 919–635–4711. 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 Dillard Paper Company of Greensboro, NC; Revco Discount Drug Centers of Twinsburg, OH; and Rose's Stores, Inc., of Henderson, NC.

[FR Doc. 83-9524 Filed 4-11-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Consent Judgment; Heileman Brewing Co., Inc.

Pursuant to the Antitrust Procedures and Penalities Act 15 U.S.C. 16, the Antitrust Division publishes below the Comment, together with its Response thereto, which it received on the proposed Consent Judgment filed in *United States v. G. Heileman Brewing Company, Inc.*, Civil No. 82–750 (Latchum) (D. Del.).

Joseph H. Widmar,
Director of Operations.

January 17, 1983.

Anthony Nanni, Esq., Chief, Trial Section, Antitrust Division, Department of Justice, Main Justice Building, Room 3268, Washington, D.C. 20530.

Dear Mr. Nanni: I am writing this letter on behalf of Paul Kalmanovitz as a supplement to our protest filed under the Tunney Act in opposition to the Heileman consent decree. The astonishing events which transpired after filing of the proposed consent decree—described by you as a "soap opera"—make it unthinkable in our view that the Department of Justice should lend itself to supporting the Heileman-Pabst conspiracy to rig the bidding for the Pabst stock and simultaneously to relegate the unsophisticated shareholder to a position vastly inferior to that achieved by the tight coterie of "insiders" known as "arbitrageurs."

We remain astounded that the Heileman-Pabst-Jacobs combine achieved control of Pabst with an offer that was $48,000,000 less than ours (valuing their bonds at $20) or $39,400,000 less (valuing those bonds at their face value of $24). Both the Justice Department and SEC monitored the Pabst take-over contest on a day-to-day, indeed, hour-to-hour basis. In other words, on a realistic valuation, $48,000,000 was left on the table because Jacobs and the half-dozen "arbitrageurs" agreed at the last moment to stay in the Heileman pool precisely because Jacobs conspired with Heilman to bring about that result.

Moreover, the unsophisticated shareholders—who were your special wards—are now subjugated to the $24 back-end bonds, which the "arbitrageurs" valued at no more than $20.

The fact that the small shareholders are forced by this combination to trade potentially valuable Pabst stock for "New Pabst" bonds is itself an injustice of enormous dimensions considering that the whole elaborate scheme was basically to sell valuable assets of Pabst to Heileman at a discount.

All of this was accomplished by:

1. Actual and attempted commercial bribery;
2. Discriminatory pricing on Pabst stock;
3. Out-and-out bid rigging; and
4. Brazen interference with contractual relations.

These charges are clearly and easily provable by the affidavit of Paul Kalmanovitz (attached hereto) and the deposition of Messrs. Cleary (Heileman) and Smith (Pabst). Corroborating evidence can be secured from Mr. Steve Jacobs, attorney for Irwin Jacobs, and Mr. David Beckwith, attorney for Heileman.

We therefore request that the Department of Justice prosecute this conspiracy or, at the very least, withdraw its approval of the proposed consent decree.

This decree, if approved, would place a mantle of respectability and apparent approval by a Court of equity on a very egregious inequity.

We believe your laws are quite sufficient to successfully prosecute this combination. We also believe that Congress might want to examine this unusual case history to provide specific remedial legislation. We are therefore taking the liberty of circulating this letter and proffer of evidence to those congressional leaders directly concerned with securities and antitrust legislation.

This agreement to eliminate a $35 bid for a $29 bid should not go unchallenged. Mr. Kalmanovitz and I have had some experience in observing conspiratorial bidding conduct. We can think of none more aggravated than this contest for Pabst stock, which occurred under the very eyes of the Antitrust Division and SEC, and where the proof is embodied in the written agreement between Heileman and Jacobs dated "as of November 26, 1982." For such unlawful conduct to go unchallenged by public agencies entrusted with law enforcement in the involved areas would lend apparent governmental approval where none was intended. Worse yet, to condone it with knowledge of these facts by granting Heileman a consent decree, in order to conclude the scheme, would be scandalous.

Respectfully,

Joseph L. Alioto.

Declaration of Paul Kalmanovitz

Paul Kalmanovitz files this Declaration in support of Plantiffs' Motion for a Preliminary Injuction

1. On November 26, 1982, Mr. Alioto telephoned and advised us that Heileman had offered us $5,000,000 if we would agree to withdraw the Kalmanovitz-Jabcobs bid of $35 per share in favor of the Hieleman bid of $27.50, and thereafter quite in bidding. I rejected this immediately as a commercial bride to engage in an agreement to eliminate competition for Pabst stock and my attorney, Joseph L. Alioto, advised me that it amounted to a price-fixing conspiracy against Pabst stockholders.

2. Mr. Alioto advised me that Heileman and Pabst secured Jacobs' defection from our joint venture by promising (a) to pay his group $7,500,000 and (b) to sell him Past's Milwaukee office building at a bargain-basement price, both promfises conditional only upon Heileman's sucess in winning the bid.

3. The details of this Heileman-Pabst offer are as follows:

(a) *Wednesday, November 24, 1982:*

(1) On Wednesday, November 24, 1982, this Court denied a Heileman-Pabst motion to enjoin our $35 per share offer on the alleged ground that it constituted "market manipulation".

(2) Irwin Jacobs was present in Court when this happened.

(3) Immediately after the session, Mr. Jacobs talked with my attorney, Mr. Alioto, and expressed complete confidence that the Heileman offer for Pabst "was dead; the game is all over".

(4) He then telephoned me about 1:00 pm, Pacific Standard Time, and ecstatically announced, "Congratulations to you and congratulations to me, We've won!"

(5) Then, at 5:30 pm, (p.s.t.) Jacobs called me, apparently distraught, and started to cry that his health was broken, he was losing his friends, he was "throwing in the sponge. I can't take the pressure anymore."

(6) In this conversation, I simply asked, "Did you speak to Cleary (Heileman's President) since we won in Federal Court?" He said "Yes." I then said "You had no business to call Cleary. It was the wrong thing to do. Sleep on it. I will talk to you on Friday when Heileman makes his next move."

(7) When Mr. Alioto returned from Wilmington, he was met at the plane by B. Orsi, my assistant, and expressed complete amazement at Jacobs's turnaround from the confidence he had just before Alioto boarded the plane to return from Wilmington to San Francisco.

(b) *Thursday, November 25, 1982 (Thanksgiving)*

(1) Throughout this day, Alioto, at my request, talked to Jacobs and his lawyer and attempted to persuade Jacobs to continue the bidding with me. Jacobs refused, repeating his inability to take the pressure, "I'm ready to jump out the window."

(c) *Friday, November 26, 1982*

(1) I was advised by Mr. Alioto that at about 7:00 am (p.s.t.), Jacobs called Alioto and said that he worked out a deal with Heileman to pay me $5,000,000 if I would agree to withdraw from bidding. Alioto told Jacobs it would be illegal to do this and that he would so advise me, and suggested in any event that he should call me directly. Alioto called to tell me about the offer; I interrupted promptly and bursquely to reject it as he was telling me it constituted a conspiracy to defraud the shareholeres by withdrawing the $35 bid in favor of a lower Heileman bid.

(2) Jacobs called me at 7:15 am (p.s.t.) shouting, "You must listen to me about Heileman." I replied I didn't want to talk about any deals with Heileman.

(3) Later in the day, both Jacobs' lawyer and Heileman's lawyer confirmed to Alioto that the $5,000,000 was available to me. I reiterated my rejection and said I would stay in the bidding. I also rejected Jacobs' invitation through my attorney, Mr. Alioto, to share with him in a bargain purchase of Pabst's Milwaukee office building. "We could get it for $5,000,000" he said, "and it's worth at least $14,000,000."

(4) The next thing was Jacobs' public announcement that he defected to Heileman in consideration of receiving $7,500,000 for "litigation expenses". Heileman confirmed this in a public filing.

Paul Kalmanovitz.

Joseph L. Alioto adopts this declaration insofar as it details conversations and events to which he is stated to be a party.

Joseph L. Alioto.

The signature of Paul Kalmanovitz was subscribed and sworn to before me this 13th day of December, 1982.

D. D. Miller,

Notary Public—California.

The signature of Joseph L. Alioto was subscribed and sworn to before me this 13th day of December, 1982.

Abigail C. Kolthoff,

Notary Public—California.

U.S. Department of Justice

AVN

60-117-037-22

Washington, D.C. 20530

March 30, 1983.

Joseph L. Alioto, Esquire
Alioto & Alioto
111 Sutter Street, Suite 2100, San Francisco, CA 94104

Re: United States v. G. Heileman Brewing Company, Inc., Civil No. 82-750 (D. Del.)

Dear Mr. Alioto: This letter responds to the written comments of Paul Kalmanovitz opposing the proposed Final Judgment in *United States v. G. Heileman Brewing Company, Inc.*[1] In those comments you state that you write to supplement your protest filed under the Tunney Act in opposition in to the proposed judgment. We understand that you refer to the motion to intervene which was filed on behalf of Mr. Kalmanovitz and two of his companies on January 19, 1983. Our response to that motion was filed with the court in Delaware on March 30, 1983.

Mr. Kalmanovitz alleges, in effect, that the proposed judgment furthers a conspiracy between G. Heileman Brewing Company, Inc. and Irwin Jacobs to obtain control of Pabst Brewing Company. He asks that the Department of Justice prosecute this conspiracy or withdraw its approval of the proposed judgment.

After a careful and complete review, we are satisfied that no action by the Antitrust Division is warranted. The proposed Final Judgment merely ensures that Heileman's control of Pabst will be limited to certain designated assets. Under those conditions, we have concluded that Heileman's tender offer for Pabst does not violate Section 7 of the Clayton Act, 15 U.S.C. § 18. Although allegations of market manipulation and collusion in the purchase and sale of a single issuer's stock may raise questions under the securities laws, we have found no violation of the antitrust laws in this transaction.

We take no positon whether the activities of Heileman, Pabst or Mr. Jacobs are in accord with federal securities laws. Jurisdiction with respect to the tender offer process is vested in the Securities and Exchange Commission. We note that Mr. Kalmanovitz has raised these issues in private actions filed in federal district courts in Delaware and California.[2] In that connection, we also note that on December 22, 1982, Chief Judge Latchum of the U.S. District Court in Wilmington, Delaware, declined to grant Mr. Kalmanovitz's motion for a preliminary injunction against Heileman's tender offer on the same facts alleged in his written comments.

[1] Letter of Joseph L. Alioto to Anthony Nanni dated January 17, 1983.

[2] Kalmanovitz v. G. Heileman Brewing Company, Inc., Civil Action No. 82-736 (D. Del.); Kalmanovitz v. G. Heileman Brewing Company, Inc., Civil Action No. C 83-0196 (N.D. Cal.).

We appreciate receiving Mr. Kalmanovitz's views. Nevertheless, we continue to believe that the proposed judgment ensures that anticompetitive consequences will not flow from the Heileman acquisition and that entry of the judgment in this case is in the public interest.

Sincerely yours,

Anthony V. Nanni,

Chief, Trial Section Antitrust Division.

Attachment:

[FR Doc. 83-9436 Filed 4-11-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Labor Advisory Comittee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Comittee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: May 5, 1983; 2:00 p.m. Rm. N3437 A, B, C & D Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. Trade negotiations and trade policy.

For further information, contact: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Dated: April 7, 1983.

Signed at Washinngton, D.C. this 7th day of April 1983.

Robert W. Searby,

Deputy Under Secretary International Affairs.

[FR Doc. 83-9471 Filed 4-11-83; 8:45 am]

BILLING CODE 4210-01-M

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on April 1, 1983.

SUMMARY: The purpose of this notice is to announce changes to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA), 601 D Street, NW., Washington, D.C. 20213, Telephone: 202-376-6700.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582, executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations, the Assistant Secretary of Labor published the annual list of labor surplus areas on June 4, 1982 (47 FR 24474).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(c) and are added to the annual list of labor surplus areas, effective April 1, 1983. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing

procurement activities and locating new plants or facilities.

Signed at Washington, D.C., on March 30, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

Additions to the Annual List of Labor Surplus Areas

April 1, 1983.

Labor Surplus Area	*Civil jurisdiction Included*
Georgia	
McIntosh County	McIntosh County
Illinois	
McHenry County	McHenry County
Louisiana	
Balance of Calcasieu Parish	Calcasieu Parish less Lake Charles City
North Carolina	
Sampson County	Sampson County
Oregon	
Wasco County	Wasco County
Rhode Island	
Woonsocket City	Woonsocket City
Texas	
Camp County	Camp County
Cass County	Cass County
Marion County	Marion County
Morris County	Morris County
Upshur County	Upshur County
Utah	
Ogden City	Ogden City in Weber County
Wisconsin	
Kewaunee County	Kewaunee County
Oneida County	Oneida County

[FR Doc. 83-9477 Filed 4-11-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 22, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 22, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W. Washington, D.C. 202313.

Signed at Washington, D.C. this 31st day of March 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
ASARCO, Inc., New Market Mine (ICWU)	New Market, TN	3/15/83	3/10/83	TA-W-14, 523	Mine zinc.
ASARCO, Inc., Young Mine, Coy Mine, Immel Mine, & Mill (ICWU).	Mascot, TN	3/15/83	3/10/83	TA-W-14, 524	Mine zinc.
Bethlehem Steel Corp., Bethlehem Plant, Plant Patrol Department (workers).	Bethlehem, PA	3/1/83	2/22/83	TA-W-14, 525	Security guard service.
Brown Shoe Co. (UFCW)	Potosi, MO	3/29/83	3/21/83	TA-W-14, 526	Shoes, dress, ladies.
Erie Mining Co. (USWA)	Hoyt Lakes, MN	3/1/83	2/25/83	TA-W-14, 527	Iron ore pellets.
Ingersoll-Rand Corp., Professional Tool Group, Jamestown Plant (IAMAW).	Jamestown, NY	3/25/83	3/1/83	TA-W-14, 528	Hand tools—adjustable wrenches, pipe wrenches, and certain pliers.
(The) Lake Terminal Railroad (workers)	Lorain, OH	3/25/83	3/15/83	TA-W-14, 529	Transport steel within U.S. Steel plants.
Lear Siegler, Inc., Bogen, Division (International Elec. Radio & Machine Workers).	Paramus, NJ	2/15/83	2/9/83	TA-W-14, 530	Sound systems.
Maryland Shipbuilding & Drydock Co. (Industrial Union of Marine & Shipbuilding Workers).	Baltimore, MD	3/15/83	3/10/83	TA-W-14, 531	Repairs, builds, and converts ocean going vessels.
Birmingham Southern Railroad Company (UTU)	Fairfield, AL	2/16/83	2/7/83	TA-W-14, 532	Transporting of commodities.
General Motors Corp., Warehousing & Distribution Division (UAW).	Louisville, KY	1/14/83	1/11/83	TA-W-14, 533	Automotive hardware parts, assembly.
Houdaille Industries, Strippit Division (CO)	Akron, NY	3/24/83	3/21/83	TA-W-14, 534	Punching machines.
Houdaille Electronics (company)	Clarence, NY	3/24/83	3/21/83	TA-W-14, 535	Numerical controls for punching machines.
Huntington Industries, Inc. (workers)	Huntington, WV	3/22/83	3/17/83	TA-W-14, 536	Dresses and sportswear, ladies.
U.S. Steel Corp., Atlantic City Ore Mine (USWA)	Lander, WY	3/2/83	3/23/83	TA-W-14, 537	Iron ore.
Union Metal Manufacturing Co. Unilectric Division (IUE)	Frankfort, IN	3/23/83	3/17/83	TA-W-14, 538	Wire harnesses, current carrying wiring devices.
W.R. Weaver Company (workers)	El Paso, TX	3/22/83	3/15/83	TA-W-14, 539	Telescopic gun sites.

[FR Doc. 83-9638 Filed 4-11-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 28, 1983–April 1, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,510; McIndustries, Inc., Brilliant, AL

TA-W-13,592; Republic Steel Corp., Union Drawn Div., Plant #1, Massillon, OH

TA-W-13,593; Republic Steel Corp., Union Drawn Div., Plant #2, Massillon, OH

TA-W-13,613; Wheeling-Pittsburgh Steel Corp., Martins Ferry, OH

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-13,756; CF&I Steel Corp., Sunrise Mine, Hartville, WY

Affirmative Determinations

TA-W-13,652; Sutton Shoe Co., Sutton, WV

A certification was issued in response to a petition received on July 13, 1982 covering all workers separated on or after February 1, 1982 and before July 30, 1982.

TA-W-13,504; General Instrument Corp., Keyboard Business Section, Computer Products Div., Post Falls, ID

A certification was issued covering all workers of the firm separated on or after April 7, 1982.

TA-W-13,750; Chicago Pneumatic Tool Co., Utica, NY

A certification was issued in response to a petition received on August 4, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,714; Bridon American Corp., Ashley, PA

A certification was issued covering all workers separated on or after January 1, 1982.

TA-W-13,725; Bridon American Corp., Exeter, PA

A certification was issued covering all workers separated on or after January 1, 1982.

TA-W-13,726; Bridon American Corp., Kingston, PA and Wilkes Barre, PA

A certification was issued covering all workers separated on or after January 1, 1982.

TA-W-13,408; Republic Steel Corp., Mahoning Valley District, Youngstown Works, Youngstown, OH

A certification was issued in response to a petition covering all workers producing steel tubular products separated on or after October 1, 1981.

TA-W-13,938; Republic Steel Corp., Mahoning Valley District, Warren Works, Warren, OH and Niles, OH

A certification was issued in response to a petition covering all workers producing steel tubular products separated on or after October 1, 1981.

TA-W-13,520; U.S. Steel Corp., Geneva Works, Provo, UT

A certification was issued in response to a petition received on May 26, 1982 covering all workers separated on or after May 20, 1981.

I hereby certify that the aforementioned determinations were issued during the period March 28, 1983–April 1, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated April 5, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-9639 Filed 4-11-83; 8:45 am]

BILLING CODE 4510-30-M

Secretary's Performance Standards for FY 1984 Under Titles II-A and III of the Job Training Partnership Act (JTPA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice advises that letters have been sent to each of the Governors relating to Performance Standards for FY 1984. Such action is taken pursuant to Section 106(c) of JTPA.

FOR FURTHER INFORMATION CONTACT: Ms. Kay Albright, Telephone (202) 376-6620.

SUPPLEMENTARY INFORMATION: The information transmitted to the Governors includes the Secretary's performance standards for the initial nine months of JTPA. The seven measures and Secretary's Standards for the initial period for Title II-A are as follows:

Adults

1. *Entered Employment Rate*—Number of adults who entered employment as a percentage of the number of adults who terminated: 58%.

2. *Cost Per Entered Employed*—Total expenditures for adults divided by the number of adults who entered employment: $5,900.

3. *Average Wage at Placement*—Average wage for all adults who entered employment at the time of termination: $4.90.

4. *Welfare Entered Employment Rate*—Number of adult welfare recipients who entered employment at termination as a percentage of the number of adult welfare recipients who terminated: 41%.

Youth

1. *Entered Employment Rate*—Number of youth who entered employment at termination as a percentage of the number of youth who terminated: 41%.

2. *Positive Termination Rate*—Number of youth having a positive termination as a percentage of the number of youth who terminated: 82%.

3. *Cost Per Positive Termination*—Total expenditures for youth divided by the number of youth having a positive termination: $4,900.

The Department will transmit to the Office of Management and Budget (OMB) a proposal relating to the longer term implementation of Section 106 of the Act. The submission to OMB will address: Performance Standards and reporting and recordkeeping requirements, and will be submitted for review under the Paperwork Reduction Act. Notice of submission will be published in the **Federal Register** along with a copy of the document. Inasmuch as this initial notice does not include such reporting and recordkeeping requirements, it need not be submitted to OMB for review.

Dated: April 8, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-9601 Filed 4-11-83; 9:46 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-23-C]

Big Fist Coal Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Big Fist Coal Company, Inc., c/o Progressive Training and Research, Star Route, P.O. Box 61, Elkhorn City,

Kentucky 41522 has filed a petition to modify the application of 30 CFR 75–1710 (cabs and canopies) to its No. 3 Mine (I.D. No. 15–11804) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The No. 3 Mine is in the Millard coal seam and ranges from 40 to 45 inches in height, with consistent ascending and descending grades, creating dips in the coalbed.

3. Petitioner states that the installation of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies can strike and dislodge the roof support system. The canopies also cause a cramped operator compartment and limit visibility, increasing the chances for an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 12, 1983. Copies of the petition are available for inspection at that address.

Dated: March 31, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-9478 Filed 4-11-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-16-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Osage No. 3 Mine (I.D. No. 46–01455) located in Monongalia County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. Massive falls have occurred in certain entries which make travel in these entries dangerous and practically impossible. Rehabilitation of these entries would expose miners to extremely hazardous conditions.

3. The ventilation between checkpoints 2 and 8 in the airways included in the petition is only required to maintain a positive flow in these headings and is not required for escapeway facilities.

4. As an alternate method, petitioner proposes to establish and maintain specified checkpoints to measure pressure differential and take air and methane readings on a daily basis. Results of the examinations will be kept in a book at each station and one located on the surface.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for that miners affected as the afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 12, 1983. Copies of the petition are available for inspection at that address.

Dated: March 31, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-9479 Filed 4-11-83; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museum Advisory Panel (Special Exhibitions); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Special Exhibitions) to the National Council on the Arts will be held May 2–5, 1983, from 9:00 a.m.–5:30 p.m. at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of Feburary 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

April 7, 1983.

[FR Doc. 83-9628 Filed 4-11-83; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Artists Nominations Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Artists Nominations Section) to the National Council on the Arts will be held on May 10, 1983, from 10:00 a.m.–5:00 p.m. at the U.S. Court House, Seattle, WA.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation regarding the selection of artists to be commissioned to create works of art for Federal buildings under construction or renovation. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

April 7, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-9627 Filed 4-11-83; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Artists Nominations Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Artists Nominations Section) to the National Council on the Arts will be held on April 25, 1983, from 10:00 a.m.—5:00 p.m. in the U.S. Court House, Portland, OR.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation regarding the selection of artists to be commissioned to create works of art for Federal buildings under construction or renovation. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 522b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

April 7, 1983.

[FR Doc. 83-9629 Filed 4-11-83; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Adoption of Statement of Principles Related to the Use and Operation of National Science Foundation-Supported Research Instrumentation and Facilities

AGENCY: National Science Foundation.

ACTION: Notice of Adoption of Statement of Principles Related to the Use and Operation of National Science Foundation-Supported Research Instrumentation and Facilities.

SUMMARY: The National Science Foundation (NSF) has undertaken a review of its policy toward involvement of commercial and industrial firms with research facilities and equipment that the NSF supports. In 1981 an internal NSF task force published two interim committee reports relating to that policy for public comment. Federal Register, June 10, 1981 (46 FR 30739). After reviewing comments received, the NSF prepared a Proposed Statement of Principles as NFF policy. That statement was published for public comment in the Federal Register, June 4, 1982, and a public meeting was held on July 29, 1982 to hear comments from interested parties. Based on written comments received and opinions expressed at the public meeting, NSF revised the Statement of Principles and proposed to establish a policy based on a statement published for further comment in the Federal Register on October 7, 1982 (47 FR 44448). After considering comments received on that proposed statement, the National Science Board adopted a statement of principles on January 21, 1983, which is contained in the NSF Important Notice set out below. Also shown below as an attachment to the Important Notice are the NSF guidelines implementing the NSB's statement of principles.

ADDRESS: National Science Foundation, Office of the General Counsel, Room 501, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles H. Herz, General Counsel National Science Foundation.

[Notice No. 91]

Important Notice to Presidents of Universities and Colleges and Heads of Other National Science Foundation Grantee Organizations

March 11, 1983.

Subject: Principles Related to the Use and Operation of National Science Foundation-Supported Research Instrumentation and Facilities.

Over the past several years the National Science Foundation (NSF) has considered the development of a statement of principles and guidelines for the use and operation of NSF-supported research instrumentation and facilities. The following statement on "Principles Related to NSF-Supported Research Instrumentation and Facilities" was unanimously adopted by the National Science Broad at its 241st meeting on January 21, 1983:

The National Science Foundation seeks the maximum productive use of the Nation's scientific instrumentation and research expertise. Ensuring that the highest quality instrumentation, facilities, and sevices are available to scientific users, both academic and industrial, is a key requirement, as are harmonious relations and cooperation between industry and universities. Private research and testing laboratories, as well as university, government, and industrial laboratories, have a contribution to make.

The National Science Board recognizes that there may be circumstances where NSF grantees use NSF-supported research instrumentation to provide services in commerce for a fee, to an extent that such practice (1) detracts from the performance of their obligation under the grant, and/or (2) may have a material and deleterious effect on the success of private companies engaged in the provision of equivalent services. It is contrary to the NSF's intent for grantees to use NSF-supported research instrumentation or facilities to provide services for a fee in direct competition with private companies that provide equivalent services.

The attachment provides additional guidelines in this area.

Edward A. Kapp,

Director.

Guidelines Related to the Use and Operation of National Science Foundation Supported Research Instrumentation and Facilities

Introduction

The National Science Foundation Act of 1950, as amended, directs the National Science Foundation (NSF) "to strengthen scientific research potential" of the Nation. The NSF strives to support and stimulate the creation of new scientific knowledge, to encourage the publication and distribution of the results of research performed under its grants, and to foster the education and training of scientific and engineering personnel. The NSF evaluates its programs in light of their ultimate contribution to national capabilities in science and engineering and their potential benefit to the Nation's citizens and the national economy.

NSF support for scientific and engineering research and for the purchase of research instrumentation and facilities has centered on academic institutions. Under certain conditions support is also provided for research in industry and in non-academic not-for-profit organizations. Collaborative research efforts between academic and industrial researchers are strongly encouraged.

In the past, concerns about use of NSF-supported instrumentation have been raised by several groups.

- University scientists and engineers, asking whether research instrumentation provided to them with NSF support may be used by or for the benefit of commercial firms, and—is such use is approved—under what terms and financial arrangements;
- Industrial scientists and engineers, with interest in using such instrumentation, particularly at major facilities, and in supporting or cooperating with university scientists and engineers doing research that uses the instrumentation;
- Commercial research and service laboratories, concerned that NSF-supported research instrumentation has been used on occasion by university personnel to provide services that compete with commercial firms.
- Commercial research and service laboratories, with interest in being considered by the NSF as providers of instrumentation or services for NSF-supported research or as managers for NSF-supported user facilities.

Access to modern research instrumentation is essential to the health of the Nation's science and engineering enterprise. Such access can be provided by dedicated equipment at a research institution, by common or shared in-house research facilities, or by an outside source on a lease or service basis.

Given the high cost of modern research instrumentation and facilities, it is important

that access be provided in the most efficient manner and that available instrumentation and facilities be as fully utilized as practical. NSF therefore encourages the sharing of instrumentation—both among academic institutions and, when appropriate, among the academic, industrial, and public sectors.

For-profit organizations may wish to use NSF-supported research instrumentation and facilities at academic and non-for-profit institutions. While access to highly specialized capabilities of for-profit organizations may also be sought by academic and not-for-profit institutions, research instrumentation at for-profit institutions usually involves no NSF monies. Despite our preference for sharing of instrumentation, *it is contrary to the NSF's intent for grantees to use NSF-supported research instrumentation or facilities to provide services for a fee in direct competition with private companies that provide equivalent services.*

Guidelines

These guidelines should assist NSF grantees, contractors, and others in matters related to the use and operation of instrumentation and facilities obtained with NSF support. These guidelines are directed to academic and other institutions that receive NSF support, in their relationships with or affecting the for-profit sector of the scientific and engineering community. The guidelines do not apply to research relationships between or among academic institutions, Government-owned facilities or centers, or Federal, state, or local governmental organizations.

1. NSF emphasized research in the academic sector because such research serves the dual NSF mission of supporting fundamental research and educating future scientists and engineers. This means, in many cases, that there are distinct advantages to supporting research instrumentation and facilities sited on the campuses.

2. However, in some cases the research and educational values of having such instrumentation and facilities in the academic environment may be outweighed by cost savings or operating efficiencies that can be achieved by having similar instrumentation or facilities provided or operated by non-academic organizations. This may be particularly true where specialized management and maintenance personnel are required, or where the principal use of an instrument or facility is in standardized testing or measurement that adds little to the educational value of the research experience. At times a non-academic organization may have technical or scientific capabilities superior to those available in academia. Under any of these circumstances, NSF grantees and contractors are encouraged to use services provided by non-academic organizations.

3. Proposals to establish and operate NSF-supported research facilities for fundamental research and educational purposes usually will be considered from all sources: academic, other not-for-profit, and for-profit organizations. In considering such proposals, NSF will give due weight to the relative advantages of the management and technical capabilities of each applicant and to the potential differences in student access and availability for educational purposes that each applicant can provide.

4. NSF-supported instrumentation or facilities may be used by or for the for-profit sector only when such use does not constitute provision of services equivalent to services available on a commercial basis. Equivalent commercial services are considered not available when the instrumentation or facilities to be used in performing them are unique, e.g., no commercial firm willing to provide the services possesses either identical instrument or instruments with essentially equal capabilities. Such uniqueness also may be due to the availability of unique personal or organizational expertise or by the proximity of the instruments in the case of fragile or perishable specimens.

However, even if the facility or instrumentation is unique, it should be recognized that extensive or repeated use by for-profit researchers may compromise the purposes for which the facility or instrumentation was provided. Similarly, a series of individual cases that taken singly would have little or no impact may cumulate to have substantial impact for commercial suppliers of comparable services.

Although each case should be judged individually, some examples may help clarify what is expected:

- Research requiring the use of a synchrotron light source is not presently likely to entail questions of existing commercial capabilities or commercial competition.
- A small firm in the southeast asks a university within a half-day's drive to perform a surface analysis on experimental material. The specimen is fragile or perishable and must be hand carried. The work will require one hour of instrument time. No repeat is expected. The nearest comparable commercial instrumentation is approximately the same distance away. The university should decide to refuse the request of the small company.
- The same conditions prevail, except that the nearest comparable commercial instrumentation is in Michigan. The small firm has checked with available express parcel delivery services, and has concluded that the specimen would be at risk because of its fragility or perishability and must be hand carried. Considering the one hour of instrument time for an analysis that is not expected to be repeated, together with the travel time required to hand carry the sample, the university could decide to provide the requested assistance in this case.

In considering whether equivalent services are available on a commercial basis in the United States, a facility or instrumentation operator should assure that a reasonable search had been conducted for such services in the commercial market. Such a search might include contact by the operator with knowledgeable people in the scientific field involved, vendors of similar testing services, or other researchers. Alternatively, the operator might rely on written statements by the applicant for-profit organization that it had canvassed suppliers of similar services and that it was unable to obtain equivalent services for reasons set forth. The operator might require the applicant to check with a sufficient number of sources and document the unavailability or describe the uniqueness of the facilities to the operator's satisfaction in terms of performance limits, expertise, proximity and perishability, or other legitimate distinguishing features.

5. If no equivalent services are commercially available, then such services may be made available to for-profit users at the option of the holder of the NSF-supported instrumentation or facility at a fee to be negotiated between the holder and the proposed user. In determining appropriate fees consideration should be given to the nature of the research or services; whether the results will be publicly available, or proprietary; and the estimate of the full cost of providing such services.

6. The NSF does not expect questions of uniqueness or approprite fees to be submitted to it for consideration or approval. NSF will not entertain challenges or protests on individual cases. Any disagreements should be handled in accordance with each instrumentation or facility operator's own procedures. Before use of NSF-supported instrumentation or facilities by or on behalf of for-profit organizations, operator institutions should have policies and mechanisms for properly addressing the principles and guidelines contained in this statement with respect to making reasonable judgments on "uniqueness" and "equivalency" and with respect to providing fair and adequate consideration of challenges to such findings.

7. Funds generated by charges for use of unique NSF-supported instrumentation or facilities by for-profit organizations should be used by the institution holding the instrumentation or facilities to offset the cost of services, to support the maintenance or operation of the instruments, or for further research or education in the sciences or engineering unless otherwise provided by the NSF grant.

8. NSF strongly encourages collaborative research efforts between academic and industrial scientists and engineers. Such research is regarded as though it were solely academic for purposes of these guidelines. However, research is regarded as collaborative only if both the academic and industrial researchers have real and substantial personal intellectual involvement in joint planning and conduct of experiments, observations, or the like. Arrangements in which the academic researcher provides little beyond access to university-based instrumentation or facilities are not collaborative research as intended here, nor is private consulting by an academic researcher. NSF recognizes that collaborative research efforts may sometimes involve acquisition of an instrument or a facility using funds provided by a for-profit organization together with funds provided by NSF, under an agreement which provides the for-profit sponsor with special access or other benefits with respect to the instrument or facility. NSF generally encourages such shared funding and does not intend that these

guidelines normally be an impediment to such arrangements. However, where the primary interest of the for-profit sponsor in such an agreement is acquisition of services equivalently available from the commercial sector, these guidelines apply.

[FR Doc. 83-9538 Filed 4-11-83; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-220]

Niagara Mohawk Power Corporation (Nine Mile Point Nuclear Station Unit No. 1); Order Confirming Licensee Commitments on Post-TMI Related Issues

Correction

In FR Doc. 83-8399 beginning, on page 14782 in the issue of Tuesday, April 5, 1983, make the following correction: On page 14783, at the end of Attachment 2 insert

[FR Doc. 83-8399 Filed 4-4-83; 8:45 am]
BILLING CODE 1505-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Issuance of Form For OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed issuance of a form submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces the proposed issuance of a form which collects information from the public. Optional Form 300, Qualification Analysis and Appraisal of Candidates for Supervisory Positions, is completed by employers and/or co-workers of applicants for supervisory positions throughout the Federal government. The Qualification Standard for Supervisory positions in General Schedule Occupations (GS-15 and below) contained in Handbook X-118, Qualification Standards for White-Collar Positions Under the General Schedule, recommends the use of this form to facilitate the collection of information used in evaluating condidates. For copies of the proposal, call John P. Weld, Agency Clearance Officer, on (202) 632-7720.

DATES: Comments on this proposal should be received within 10 working days from date of this publication.

ADDRESSES: Send or deliver comments to:
John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 6669, Washington, D.C. 20415 and
Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT:
John P. Weld, (202) 632-7720.

Office of Personnel Management.
Donald J. Devine,
Director.

[FR Doc. 83-9615 Filed 4-11-83; 8:45 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19652; (SR-Amex-83-3)]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

April 5, 1983.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, submitted on February 10, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Amex Rules 131 and 154 to allow percentage orders to be converted and executed on "zero plus" ticks (for buy orders) and "zero minus" ticks (for sell orders) when the order causing the conversion is at least 5,000 shares.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19541, February 25, 1983) and by publication in the **Federal Register** (48 FR 9411, March 4, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-9522 Filed 4-11-83; 8:45 am]
BILLING CODE 8010-01-M

[1] The Commission recently has approved an Amex rule change (SR-Amex-82-21) that amended the definition of percentage order in Amex Rule 131 to differentiate between "straight limit," "last sale," and "buy minus—sell plus" percentage orders, and to add commentary to Amex Rule 154 describing the procedures followed by specialists when receiving and executing percentage orders. Securities Exchange Act Release No. 19466, January 28, 1983; 48 FR 5627, February 7, 1983.

[Release No. 19654; SR-NYSE-83-6]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

April 5, 1983.

The New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, New York 10005; submitted on February 7, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to establish formal criteria which will be used as guidelines by the Exchange's Subcommittee on Floor Facilities ("Subcommittee") for the allocation and reassignment of trading floor booth space. The guidelines for the allocation of floor booth space provide, among other things,that prior to an initial assignment of booth space to a member or member organization, applications are to be submitted to the Subcommittee, which will evaluate the applications in light of certain criteria, which include: (1) Consideration of the type of business (acting as a dealer, regional, retail or institutional firm); (2) the actual or anticipated volume of orders; (3) the amount and type of equipment needed; and (4) the number of operational personnel needed, such as members, order clerks, and two-dollar brokers. The proposed rule change also provides guidelines for the reassignment of booth space including: (1) elimination of the practice of member "sub-leasing" of floor booth space; (2) reallocation of booth space following the merger of two firms; and (3) periodic review of space utilization by Exchange staff in order to provide for full utilization. In addition, the proposed rule change provides that any member who requests an opportunity to personally appear before the Subcommittee in connection with an application for assignment of floor booth space be afforded such opportunity. Any member affected by a proposed reassignment of previously allocated floor space will be specifically invited to appear before the Subcommittee before any action is taken. Thereafter, the affected member has the right to avail himself of the formal Exchange hearing procedures under NYSE Rule 475(a).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19514, February 18, 1983) and by publication in the **Federal Register** (48 FR 8378, February 28, 1983). No comments were received with respect to the proposed rule filing.

Since the Exchange does not have an unlimited amount of booth space on the floor, it is necessary for the Exchange to devise some method for allocating available space. The Commission veiws the criteria to be used by the Subcommittee in allocating and reassigning floor booth space as a reasonable means to achieving an efficient use of Exhange floor space and facilities. Accordingly, the Commission does not view the proposed criteria or procedures as imposing any burden on competition not necessary or appropriate in furtherance of the Act. In the Commission's view, the proposed criteria for the allocation of floor booth space appear to serve a valid purpose in permitting the Exchange to assign such space based on the specific nature or needs of the member's business. The proposed criteria for the reassignment of booth space, including elimination of member sub-leasing of booth space, also serves a valid purpose in assisting the Exchange in utilizing its limited floor space in an efficient and equitable manner.[1]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-9010 Filed 4-11-83; 8:45 am]

BILLING CODE 8010-01-M

[1] Exchange members are afforded the opportunity to appear before the Subcommittee in connection with an application for booth space or a proposed Subcommittee reassignment of booth space. Furthermore, procedures under NYSE Rule 475(a) are available to any person with respect to claims of prohibition or limitation to access to Exchange services.

[Release No. 13139; 812-5393]

Raymond Industries Inc; Filing of Application

April 5, 1983.

In the Matter of: RAYMOND INDUSTRIES INC., 217 Smith Street, Middletown, Connecticut 06457; (812-5393) notice of filing of application for an order pursuant to Sections 2(a)(9) and 3(2) of the Act declaring that Applicant is not an investment company, or alternatively, for an order pursuant to Section 6(c) exempting applicant from all provisions of the Act.

Notice is hereby given that Raymond Industries Inc., ("Applicant"), a Connecticut Corporation, filed an application on December 13, 1982, and amendment thereto on March 15, 1983, for an order of the Commission pursuant to Sections 2(a)(9) and 3(b)(2) of the Investment Company act of 1940 ("act"), declaring Applicant is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities, either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses, or, in the alternative, pursuant to Section 6(c) of the Act, exempting Applicant from all of the provisions of the Act and any rule regulation thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant is the parent company of three consolidated subsidiaries that produce electromechanical and electronic devices and torquing equipment (Raymond Engineering Inc.), heating products (Safeway Products Inc.) and time recording equipment and telephone system components (rapidprint Inc.). Applicant states that it also participates in the oilfield services industry through its 24.6% equity interest in Teleco, which provides measurement-while-drilling services to drillers of oil and gas wells.

According to the application, Applicant was founded in 1938 to provide contract research and development services (principally machine design and electromechanical product design) for industrial clients. Applicant states that it was incorporated in Connecticut in 1943 under the name Raymond Engineering Laboratory, Incorporated. Applicant states that, during World War II, it produced sophisticated safing, arming and fuzing devices for use in a variety of weapons systems for the U.S. military. Applicant asserts that it continues (through Raymond Engineering Inc.) to be a major supplier of these devices today.

Applicant states that, in July of 1969, it acquired Safeway Products Inc. ("Safeway") and Rapidprint Inc. ("rapidprint"), thereby adding product lines that were not principally dependent on the military market. Applicant further states that, in 1970, Applicant, then known as "Raymond Precision Industries Inc.", reorganized into a holding company by transferring its traditional precision electromechanical and electronics business to a newly created subsidiary, Raymond Engineering Inc. ("REI").

The application states that, in 1972, Applicant and Societe Nationale Elf Aquitaine ("SNEA"), a major French oil company, organized Teleco Oil field Services Inc. ("Teleco"), a Delaware corporation, to pool the technology and development work each had been doing independently in the area of a process known as measurement-while-drilling. Applicant states that, initially, it owned 51% of Teleco's voting stock and SNEA owned the balance. Applicant states that Teleco effected an $11,000,000 primary public offering of its common stock in April of 1979, and that, after the public offering, Applicant owned 35.6% of Teleco's common stock and SNEA owned 33.9%. Applicant states that its ownership position in Teleco has been further reduced by an exchange offer made by Applicant in 1980 involving Teleco common stock owned by Applicant, and by a public offering and related private sale of Teleco common stock by Teleco in 1981. Applicant represents that it presently owns approximately 24.6% of Teleco's outstanding common stock and SNEA owns approximately 33.7%.

Applicant states that, immediately prior to Teleco's initial public offering, Applicant and SNEA entered into a voting agreement under which they have the power to elect all of Teleco's directors. Applicant states that the voting agreement obligates each party to vote against any amendments to the charter or by-laws of Teleco, unless both agree to vote in favor thereof. Applicant states that, in addition, the agreement provides that immediately prior to any transfer of Teleco Stock by Applicant or SNEA, the effect of which would be to reduce their combined ownership to 50% or less, they both will, upon request of either, vote in favor of a charter amendment requiring cumulative voting for the election of directors. Applicant states that the voting agreement continues in effect until

April, 1989, so long as each party owns at least 10% of Teleco's outstanding common stock. The application states that Applicant and SNEA each has a right of first refusal to purchase the other's shares of Teleco stock (except for certain shares acquired by SNEA in 1981) prior to the transfer thereof. Applicant states that the by-laws of Teleco contain provisions that require that certain significant matters be approved by a supermajority of all the directors. Applicant states that, in addition, because Teleco's authorized common stock is only slightly greater than the amount outstanding, the issuance of a significant number of shares require an amendment to Teleco's charter which, under the voting agreement between Applicant and SNEA, cannot be done without Applicant's consent. Applicant states that, although not required by any agreement with SNEA, the Chairman of Applicant, George Raymond, continues to serve as Chairman of Teleco.

Applicant states that, in order to avoid a forced sale of its assets (in particular, REI) at an inopportune time, Applicant decided to convert REI into a publicly held company. Applicant asserts that by creating a public market for its REI stock, if Applicant were forced to liquidate, it would be able to distribute its remaining shares of REI stock upon liquidation, while assuring its shareholders liquidity for such shares. Applicant states that, on December 14, 1982, Applicant sold 475,000 of its REI shares to the public at a price of $15.75 per share. Applicant states that, following the offering, and a simultaneous issuance of 9.916 shares of REI common stock to REI employees under its Restricted Stock Plan, Applicant owned 690,000 shares (53.9%) of the 1,279,916 shares of outstanding REI common stock. Applicant represents that it continues to own 100% of the stock of Safeway and Rapidprint.

Applicant submits that, as a result of its holdings of Teleco common stock, Applicant falls within the definition of an investment company pursuant to Section 3(a)(3) of the Act. Applicant represents that REI historically has accounted for the majority of Applicant's sales, operating assets and (disregarding the noncash benefit of Applicant's equity in Teleco's earnings) earnings. Applicant states that it is not comfortable that, following REI's public offereing (after which REI is no longer a wholly owned subsidiary), it can be held to be primarily engaged in businesses other than that of investing, reinvesting, owning, holding or trading in securities through Safeway and Rapidprint, its remaining wholly owned subsidiaries, alone.

Section 3(b)(2) of the Act, however, excepts from the definition of an investment company any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses. Applicant requests that the Commission issue an order under Section 3(b)(2) of the Act finding and declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities through (A) its majority-owned subsidiaries and (B) through a controlled company and also requests that the Commission issue an order under Section 2(a))9) of tha Act finding that Applicant controls Teleco.

Applicant states that, since its founding, it has been engaged in sophisticated electronic and electromechanical engineering and development.

Applicant represents that, even though as it grew its corporate structure became more complicated, it has never been other than an operating company concerned with the management and development of its subsidiaries. Applicant represents that it has never professed a policy of being other than engaged in the businesses of its subsidiaries, including Teleco.

Applicant states that its officers are primarily operating and financial personnel, most of them with engineering backgrounds. Applicant represents that its officers have historically devoted their full time to the management of the operations of Applicant and its subsidiaries, and none are engaged in securities trading or portfolio management (other than customary cash management activities). Applicant represents that its board of directors has historically devoted its attention principally to the activities, needs, and problems of Applicant's subsidiaries. Applicant states that directors' meetings typically include reviews of the operations and plans of Applicant's consolidated subsidaries and reports on Teleco. Applicant further states that the compensation of the officers of Applicant and its subsidiaries (including REI until its public offering) are determined by the compensation committee of Applicant's board.

Applicant represents that it takes an active role in the management of Teleco through its representations on the board of directors and the committees of Teleco. Applicant states that its three representatives on Teleco's seven-man board include Applicant's President and the President of Safeway.

The application states the Applicant's assets consist principally of its investments in REI, Teleco and its wholly owned subsidiaries. According to the application, the bid price of Teleco's common stock was $14.50 per share on December 31, 1982, giving a market value for Applicant's 2,030,114 shares of Teleco stock of approximately $29,437,000. Applicant states that, using the December 31, 1982 last bid price for REI shares of $15.50, Applicant's REI shares had a market value on December 31, 1982 of $10,695,000. The application states that the other assets of Applicant (including cash items) are its investments in its wholly-owned subsidiaries, miscellaneous office equipment, furniture, automobiles and other assets. The application states that, on a market value basis, Applicant's total unconsolidated assets (exclusive of cash items) on December 31, 1982 were approximately $47,391,000. The application further states that Teleco shares represented approximately 62% of its total unconsolidatd assets (exclusive of cash items) on December 31, 1982.

Applicant states that its consolidated net earnings for the year ended December 31, 1982 were $5,365,000. Applicant states that, of this amount, $1,454,000 (27%) represented Applicant's equity in Teleco's net earnings. Applicant states that earnings for the year ended December 31, 1982 benefited from a net gain of $1,763,000 realized upon the sale of Applicant's REI shares. Applicant further states that the balance of consolidated net earnings in both years was provided almost entirely from the sales of Applicant's three consolidated subsidiaries, with REI accounting for the largest share. According to the application, for the year ended December 31, 1982, REI represented 66.6% of Applicant's sales and 88% of Applicant's operating profit. Applicant maintains that, even after the sale of REI shares by Applicant, REI will represent by far the single most significant contributor to Applicant's income.

The application states that Applicant has, since December 31, 1982, invested the proceeds of the REI sales plus additional funds in an $8,000,000 portfolio of high-yield securities, the

income from which will be used for operating expenses and other cash needs. Applicant asserts that this portfolio is expected to generate approximately $850,000 of annual pre-tax income. Applicant states that, in addition, Teleco has paid its first dividend, in an amount of $101,000. Applicant asserts that if these amounts had been received in 1982, income from investment securities would still have represented less than 20% of its pre-tax earnings (excluding equity in Teleco's earnings). Applicant represents that, until recently, it has derived no cash income from Teleco, and it anticipates that its Teleco dividends in the next few years will not be material to its overall income.

Section 6(c) of the Act provides, in part, that the Commission may upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities of transactions, from any of the provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant requests that the order be made retroactive to February 10, 1983, the day before the expiration of the 60-day period that commenced upon the filing by Applicant of its original application during which Applicant was exempt from all of the provisions of the Act as provided by Section 3(b)(2), so that Applicant is exempt as provided in such order commencing on that date.

Notice is further given that any interested person wishing to request a hearing on the application may, not later then April 29, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-9609 Filed 4-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19644; File No. S7-966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2

AGENCY: Securities and Exchange Commission.

ACTION: Notice of filing of Amex/CBOE/MSE/NASD/NYSE/PSE/Phlx options plan.

SUMMARY: Six national securities exchanges and the National Association of Securities Dealers, Inc. ("SROs") have filed a plan with the Securities and Exchange Commission which would allocate regulatory responsibility for certain options-related sales practice matters to one of the designated SRO's which is a participant in the plan with respect to a broker or dealer which is a member of more than one SRO. The plan would reduce regulatory duplication relative to options-related sales practice matters for a large number of firms currently members of two or more of the SRO's and would represent a more effective and efficient utilization of the available resources of each participating SRO.

DATE: Comments must be received on or before May 16, 1983.

ADDRESS: Persons wishing to submit written views, data and comments should file six (6) copies thereof with George A.Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington D.C. 20549. All comments should refer to File No. S7-966. Copies of the submission and of all written comments will be available for public inspection at the Commission's Public Reference Room, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James Moody at (202) 272-7375 or Elizabeth S. York at (202) 272-2377, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C 20549.

SUPPLEMENTARY INFORMATION: Pursuant to Rule 17d-2(c) of the Securities and Exchange Act of 1934 (the "Act"), 17 CFR 240.17d-2(c), the Securities and Exchange Commission (the "Commission") is publishing notice that the American Stock exchange, Inc. ("Amex"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Midwest Stock Exchange, Inc. ("MSE"), the National Association of Securities Dealers, Inc. ("NASD") the New York Stock Exchange, Inc. ("NYSE"), the Pacific Stock Exchange Inc. ("PSE"), and the Philadelphia Stock Exchange, Inc. ("Phlx") have filed with the Commission a plan for the allocation of regulatory responsibilities pursuant to Rule 17d-2.

I. Introduction

Section 19(g)(1) of the Act, among other things, requires every national securities exchange and registered securities association ("SRO") to examine for and enforce compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder and the SROs own rules unless relieved of this responsibility under Section 17(d) or 19(g)(2) of the Act. For a broker or dealer that belongs to more than one SRO ("dual member"), this statutory obligation could result in a pattern of multiple examinations by each SRO, creating unnecessary regulatory duplication and added expenses for a firm and the industry.

Section 17(d)(1) of the Act was intended, in part, to eliminate overlaps and gaps in the regulatory pattern.[1] With respect to a dual member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

Rule 17d-1 under the Act, 17 CFR 240.17d-1, was adopted by the Commission on April 20, 1976. The rule authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine dual members for compliance with the Act and Commission and SROs rules and regulations relating to financial responsibility. Once an SRO has been named a dual member's DEA, all other SROs to which the dual member belongs are relieved on the responsibility to examine the firm for compliance with financial responsibility rules.

On its face, Rule 17d-1 deals with financial responsibility compliance and no other aspect of SRO's responsibilities. Thus, every SRO continues to be obligated, whether or not it is the DEA, to examine a dual member for compliance with its own rules and provisions of the Act and rules

[1] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249. S. Rep. No. 94-75, 94th Cong., 1st Sess. 32 (1975).

and regulations thereunder governing matters other than financial responsibility. Such matters include options-related sales practice matters.

On October 28, 1976, the Commission adopted Rule 17d-2 under the Act, 17 CFR 240.17d-2.[2] The rule permits SROs to join in proposing plans for allocating the regulatory responsibilities imposed by the Act with respect to dual members. Rule 17d–2(c) provides that the Commission will publish notice of the filing of the proposed plan and provide an opportunity for comment on the plan. Commission approval of a plan filed pursuant ot Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Proposed Plan

The proposed plan [3] filed by the SROs is intended to reduce regulatory duplication for a large number of firms currently members of two or more SROs by allocating regulatory responsibility for certain options-related sales practice matters to one designated SRO. A brief description of the general operation of the plan follows.

Under the plan, the SRO to whom a firm is designated will be responsible for conducting options-related sales practice examinations and investigating options-related customer complaints and terminations for cause of associated persons during the time that the firm is designated to the SRO. After approval of the plan, any other SRO of which the firm is a member will accordingly be relieved of such responsibility during the period the firm is assigned to another SRO. The responsible SRO will be known as the firm's Designated Options Examining Authority" (the "DOEA").[4]

A. Examinations and Disciplinary Proceedings

The DOEA will be responsible for examining for compliance by a firm with the provisions of applicable federal securities laws and the rules and regulations thereunder, its own rules and the rules of any SRO of which a firm is a member. The DOEA will have enforcement responsibility with respect to apparent violations of applicable federal securities laws and the rules and regulations thereunder, the DOEA's rules and the rules of any participating SRO which are comparable to a federal and/or DOEA rule. Violation of such rules will be enforced and disciplinary action taken by the DOEA.[5] However, enforcement responsibility and disciplinary action for violations relating to transactions executed on the floor of, and to unique rules of, a non-DOEA will remain that of the relevant SRO.

B. Procedures for Furnishing Examination Results

Reports on the results of examinations of firms subject to the plan (*i.e.*, firms which are members of two or more participating SROs) will be made in the following manner.

Apparent violations of a serious nature involving the floor of a non-DOEA participating SRO will be communicated to that SRO as soon as the problem has been identified by the DOEA.

A report of all examinations completed will be made by the DOEA to all participating SROs of which a firm is a member. This report will include the name of the firm examined and the examination results. If an examination results in the taking of formal disciplinary action by the DOEA, a copy of the dispositive document will be forwarded routinely to all participating SROs of which a firm is a member.

Apparent violations of unique rules will be forwarded to the relevant SRO as soon as the examination report has been reviewed by an appropriate staff supervisory person of the DOEA.

Should the DOEA staff believe that an examination reveals a situation that may affect the ability of a firm to continue its public options business, all participating SROs of which the firm is a member will be notified promptly.

C. Access to Examination Reports

All examination reports relating to firms subject to the plan will be available for review, at any time, by all participating SROs of which the firm is a member.

D. Customer Complaints and Termination for Cause

Participating SROs are required to give the DOEA copies of all customer complaints not uniquely related to a non-DOEA's market, as well as terminations for cause of registered personnel received by them relative to a firm for which the SRO is not the DOEA.

E. Special Situations

The parties have agreed to share information relative to potential violations of rules for which they have joint compliance responsibility, *i.e.*, not options sales practice related such as capping or pegging on the floors of one or more of the SROs, and will cooperate with each other in conducting examinations of or promptly providing relevant data related to such potential violations when requested to do so. Responsibility for the disciplinary process arising out of conduct central to or uniquely related to the market of a participating SRO, which is not the DOEA, will be handled by the non-DOEA SRO unless it chooses to allow the DOEA to handle such process.

F. The Allocation Procedure

In order to administer the allocation of responsibility, the SROs are proposing in this plan the formation of an Options Self-Regulatory Council ("Council") composed of representatives from each of the participating SROs. The Council will periodically reallocate firms subject to the plan, *i.e.*, there will be some form of DOEA rotation among the SROs for firms which they have in common. The Council will reallocate the firms subject to the plan at least once every two years, but no sooner than one year following the prior general reallocation. Four factors will be considered when reallocating firms subject to the plan. They are:

1. Parity; [6]

2. Appointment as DOEA of common members will be rotated among those SROs which seek appointment as such;

3. If conditions warrant, an SRO may be continued as DOEA for one or more firms; and

4. If an SRO to which a common member belongs has not served as DOEA and requests to do so, such must be done, unless there are two or more SROs who qualify. If so, the Council will choose the DOEA.

III. Request for Comment

In order to assist the Commission in determining whether to approve this plan and relieve those SROs which are not the DOEA as to a common member of regulatory responsibility with respect to the matters allocated to the DOEA, interested persons are invited to submit written data, views and comments concerning the proposed plan on or before May 16, 1983.

Dated: April 1, 1983.

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[2] Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49093 (November 8, 1976).

[3] Unless otherwise indicated all of the responsibilities referred to in the release discussing the plan pertain to "option-related" sales practice activity.

[4] Under the plan, only the Amex, CBOE, NASD and NYSE are DOEAs.

[5] Such actions include Formal Complaints, Formal Charges or Letters of Admission, Waiver and Consent.

[6] Parity means that, to the extent feasible, each SRO shall, after the reallocation process, be the DOEA for the same number of firms as it was prior to such reallocation.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-9606 Filed 4-11-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0301]

HMS Capital, Ltd.; Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 611 *et seq*), has been filed by HMS Capital, Ltd., 1500 Newell Avenue, Suite 1020, Walnut Creek, California 94596 with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982).

The officers, directors and stockholders of the applicant are as follows:

Michael C. Hone, President, 99 Eucalyptus Road, Berkeley, California 94705.

Susan Hone, Vice President, and Secretary, 3 Tanglewood Road, Berkeley, California 94705.

Richard Pospisill, Director, 16530 Stevens Canyon, Cupertino, California.

William R. Shapiro, Director, 3746—21st Street, San Francisco, California 94114.

Jerome M. Paros, 1509 NE 69th Street, Redmond, Washington 98052.

The Applicant, a California corporation, with its principal place of business at 1500 Newell Avenue, Suite 702, Walnut Creek, California 94596, will begin operations with $510,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Walnut Creek, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.

Dated: April 1, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-9442 Filed 4-11-83; 8:45 am]

BILLING CODE 8025-01-M

Region I—Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Concord, will hold a public meeting at 10:00 a.m., Tuesday, May 3, 1983, in the Federal Building, 55 Pleasant Street, Concord, New Hampshire, Room 304, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Bert Teague, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301, (603) 224-4041.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

April 5, 1983.

[FR Doc. 83-9441 Filed 4-11-83; 8:45 am]

BILLING CODE 8025-01-M

Region III—Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Towson, will hold a public meeting at the Sheraton Inn Frederick, 5400 Sheraton Drive, I-270 at Maryland Route 85, Frederick, Maryland on May 16 and 17, 1983, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call J. Arnold Feldman, District Director, U.S. Small Business Administration, 8600 La Salle Road, 630 Oxford Building, Towson, Maryland 21204, (301) 962-2054.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

April 5, 1983.

[FR Doc. 83-9440 Filed 4-11-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0138]

TDH Capital Corp.; Notice of License Surrender

Notice is hereby given that TDH Capital Corporation, Two Radnor Corporate Center, Radnor, Pennsylvania 19087, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). TDH Capital Corporation was licensed by the Small Business Administration on December 22, 1978.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on March 31, 1983, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 6, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-9646 Filed 4-11-83; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, will hold a public meeting at 9:00 a.m., on Thursday, May 19, 1983, at the Research & Development Center, Room 130, Educational Complex, 3825 Ridgewood Road, Jackson, Mississippi, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Thomas M. Short, Acting District Director, U.S. Small Business Administration, 322 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, (601) 960-4363.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

April 6, 1983.

[FR Doc. 83-9647 Filed 4-11-83; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document consists of an extended form. The entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of P.L. 96–511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington DC, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–7316.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: April 1, 1983.

By direction of the Administrator.

Dominick Onorato

Associate Deputy Administrator for Information Resources Management.

Extension

(1) Office of Construction
(2) Architect-Engineer Fee Proposal
(3) VA Form 08–6298
(4) When requested by the Office of Construction
(5) Architect-Engineer Firms
(6) 200
(7) 4 hours
(8) Section 3504(H) of Pub. L. 96–511 does not apply.

FR Doc. 83-9017 Filed 4-11-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 71
Tuesday, April 12, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Energy Regulatory Commission	1
Postal Service	2
Securities and Exchange Commission	3

1

FEDERAL ENERGY REGULATORY COMMISSION

April 6, 1983.

TIME AND DATE: 10 a.m., April 13, 1983.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevent to the items on the agenda; however, all public documents may be examined in the division of public information.

Consent Power Agenda—768th Meeting, April 13, 1983, (10 a.m.)

CAP-1. Project No. 2811-002, Public Utility District No. 1 of Klickitat County, Washington
CAP-2. Project No. 2888-003, City of Redding, California
CAP-3. Project No. 6944-001, Douglas Water Power Co.
CAP-4. Project No. 3415-002, Southeastern Renewable Resources, Inc., and the Town of Grafton, West Virginia; Project No. 3972-000, Energenics Systems, Inc.; Project No. 4151-001, City of Bedford, et al.
CAP-5. Project No. 3417-004, Southeastern Renewable Resources, Inc., and the Town of Grafton, West Virginia; Project No. 3476-001, Noah Corp.; Project No. 4067-001, City of Bedford, et al.; Project No. 4239-001, City of Philippi, West Virginia; Project No. 4255-001, Taylor County Commission and the Town of Flemington, West Virginia
CAP-6. Project No. 6307-002, Lawrence J. McMurtrey
CAP-7. Project No. 6097-002, Douglas Pegar; Project No. 6628-000, Waterfall Electric Co.
CAP-8. Project No. 6167-002, Ronald Rulofson
CAP-9. Project No. 5906-002, North Canal Waterworks
CAP-10. Project No. 6156-002, Milton and Morris Zack; Project No. 6885-001, Richard Moss
CAP-11. Project No. 2157-013, et al., Public Utility District No. 1 of Snohomish County and City of Everett, Washington
CAP-12. Docket No. HB55-74-1-001, Puget Sound Power & Light Co.
CAP-13. Docket No. ER81-620-001, Public Service Co. of New Hampshire
CAP-14. Docket No. ER82-769-002, Minnesota Power & Light Co.
CAP-15. Docket Nos. ER82-774-003, ER83-209-001 and ER83-227-001, Tapoco, Inc.; Docket Nos. ER82-829-001 and ER83-219-001, Nantahala Power & Light Co.
CAP-16. Docket Nos. ER83-348-000, ER83-349-000, ER83-350-000, ER82-412-000, and ER80-250-000, et al., Kansas Gas & Electric Co.
CAP-17. Docket No. ER83-342-000, Vermont Electric Power Co., Inc.; Docket No. ER83-343-000, Vermont Yankee Nuclear Power Co.
CAP-18. Docket Nos. ER83-333-000 and ER83-351-000, Dayton Power & Light Co.
CAP-19. Docket No. ER81-450-000, Union Electric Co.
CAP-20. Docket No. ER81-141-000, Potomac Edison Co.
CAP-21. Docket Nos. ER81-764-000 and 002, Minnesota Power & Light Co.
CAP-22. Docket No. EL83-11-000, Virginia Electric & Power Co.

Consent Miscellaneous Agenda

CAM-1. Docket No. RM79-76-131 (Oklahoma—4), High-cost gas produced from tight formations
CAM-2. Docket No. RM79-76-143 (Texas—20 addition), High-cost gas produced from tight formations
CAM-3. Docket No. RM79-76-144 (Texas—25), High-cost gas produced from tight formations
CAM-4. Docket No. RM79-76-145 (Texas—26), High-cost gas produced from tight formations
CAM-5. Docket No. RM79-76-146 (Nebraska—1 addition), High-cost gas produced from tight formations
CAM-6. Docket Nos. RM79-76-146 (Texas—22 addition) and RM79-76-157 (Texas—22 addition II), High-cost gas produced from tight formations
CAM-7. Docket No. RM79-76-155 (Utah—7), High-cost gas produced from tight formations
CAM-8. Docket No. RM79-76-157 (Texas—7 addition II), High-cost gas produced from tight formations
CAM-9. Docket No. RA82-29-000, Dunigan Operating Co.
CAM-10. Docket No. R079-7-001, Propane Gas & Appliance Co; Docket No. RO81-20-001, L.E. Jones Production Co.; Docket No. RO81-61-001, Dalton J. Woods
CAM-11. Docket No. RO80-10-001, Getty Oil Co.

Consent Gas Agenda

CAG-1. Docket No. TA83-1-22-000 (PGA83-1, IPR83-1 and AP83-1), Consolidated Gas Supply Corp.
CAG-2. Docket No. TA83-1-5-003, Midwestern Gas Transmission Co.
CAG-3. Docket No. TA83-1-21-002, (PGA83-2, IPR83-1 and AP83-1), Columbia Gas Transmission Corp.
CAG-4. Omitted
CAG-5. Docket No. RP83-47-002, Tennessee Gas Pipe Line Co., a Division of Tenneco, Inc.
CAG-6. Docket Nos. RP74-41-022, 023 and 024 (remand), Texas Eastern Transmission Corp.
CAG-7. Docket No. RP82-55-000, Transcontinental Gas Pipe Line Corp.
CAG-8. Docket No. RP81-009, United Gas Pipe Line Co.
CAG-9. Docket No. RP73-43-005 (PGA79-1 and TT79-2), Mid Louisiana Gas Co.
CAG-10. Docket Nos. OR79-1-000, 017 and 018, Williams Pipe Line Co.
CAG-11. Docket Nos. OR78-1-011 and 014, Trans Alaska Pipeline System.
CAG-12. Docket No. IS83-27-001, Exxon Pipe Line Co.
CAG-13. Docket Nos. IS80-14-000 and IS81-115-000, et al., American Petrofina Pipe Line Co., et al.
CAG-14. Docket Nos. IS82-173-000 and

OR78-1-000, et al., Amerada Hess Pipeline Corp.
CAG-15. Docket No. ST83-93-000, South Texas Gathering Co.
CAG-16. Docket No. ST82-319-001, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG-17. Docket No. ST83-114-000, Seagull Shoreline System.
CAG-18. Docket No. ST81-43-001, Rocky Mountain Natural Gas Co., Inc.
CAG-19. Docket No. TC81-9-000, Texas Gas Transmission Corp.
CAG-20. Docket No. CP83-136-000, Northwest Pipeline Corp.
CAG-21. Docket No. CP81-58-000, Colorado Interstate Gas Co.
CAG-22. Docket Nos. CP74-138-006, 007, 008 and 009, et al., Truckline LNG Co., et al.
CAG-23. Docket No. CP82-107-002, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG-24. Docket No. CP82-366-001, Kansas-Nebraska Natural Gas Co., Inc.
CAG-25. Docket No. CP82-499-001, Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Columbia Gulf Transmission Co. and United Gas Pipe Line Co.
CAG-26. Docket Nos. CP83-14-000, 001, 002, 003 and 004, Northern Natural Gas Co., Division of Internorth, Inc.
CAG-27. Docket No, CP76-362-004, et al., Texas Eastern Transmission Corp.
CAG-28. Docket No. CP83-171-000, Arkansas Louisiana Gas Co.
CAG-29. Docket No. CP83-181-000, Lone Star Gas Co., a Division of Enserch Corp.
CAG-30. Docket No. CP78-467-001, Columbia Gas Transmission Corp.; Docket No. CP79-14-002, Texas Eastern Transmission Corp. and Consolidated Gas Supply Corp.
CAG-31. Docket No. CP77-358-004, Texas Eastern Transmission Corp.
CAG-32. Docket Nos. RI74-188-014 and RI75-21-009, Independent Oil & Gas Association of West Virginia.

I. Licensed Project Matters

P-1. Project No. 344-001, Southern California Edison Co.
P-2. Project No. 6775-00, Winchester Water Control District and Elektra Power Corp.

II. Electric Rate Matters

ER-1. Docket No. ER78-417-00, Kentucky Utilities Co.
ER-2. Docket No. EF80-2011-001 (remand), U.S. Department of Energy, Bonneville Power Administration
ER-3. Docket Nos. EF81-2011-000 and EF82-2011-001, U.S. Department of Energy—Bonneville Power Administration

Miscellaneous Agenda

M-1. Reserved
M-2. Reserved
M-3. Docket No. RM81-29-000, Sales and Transportation by Interstate Pipelines and Distributors
M-4. Docket No. RM80-47-002, et al., regulations implementing Section 110 of the Natural Gas Policy of 1978, and establishing policy under the Natural Gas Act
M-5. Docket No. RM80-47-004, et al., regulations implementing Section 110 of the Natural Gas Policy of 1978, and establishing policy under the Natural Gas Act
M-6. Docket No. GP83-7-000, Amoco Production Co.
M-7. Omitted
M-8. Docket No. GP81-43-000, MCOR Oil & Gas Corp.

Gas Agenda

I. Pipeline Rate Matters

RP-1. Docket Nos. RP79-10-002 and RP80-134-007, Great Lakes Gas Transmission Co.
RP-2. Omitted
RP-3. Docket No. RP80-106-000, Trunkline Gas Co.

II. Producer Matters

CI-1. Reserved

III. Pipeline Certificate Matters

CP-1. Docket No. CP77-459-002, Midwestern Gas Transmission Co.; Docket No. CP77-520-004, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CP-2. Docket No. CP83-157-000, Trunkline Gas Co. and Panhandle Eastern Pipe Line Co.

Kenneth F. Plumb,

Secretary.

[S-506-83 Filed 4-8-83; 10:42 am]

BILLING CODE 6717-02-M

2

POSTAL SERVICE

(Board of Governors)

Vote To Close Meeting

At its meeting of April 5, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for May 2, 1983. The meeting will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not rquire that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, purusant to sections 552b(c)(3), and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and sections 7.3 (c) and (j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S507-83 Filed 4-7-83; 4:41 pm]

BILLING CODE 7710-12-M

3

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be Published.

STATUS: Open meeting.

PLACE: 450 5th Street NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, April 4, 1983.

CHANGES IN THE MEETING: Additional item. The following additional item will

be considered at an open meeting scheduled for Thursday, April 14, 1983, at 10 a.m. in Room 1C30:

Consideration of whether to issue a rule proposal for amendments to the portions of the Industry Guides for Statistical Disclosures by Bank Holding Companies relating to disclosures about nonperforming loans and certain foreign loans. For further information, please contact Marc D. Oken at (202) 272–2157.

Commissioner Evans, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

April 7, 1983.

[S-506-83 Filed 4-7-83; 4:05 pm]

BILLING CODE 8010-01-M

federal register

Tuesday
April 12, 1983

Part II

Department of the Interior

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico; Oil and Gas Lease Offering (May 1983)

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf, Central Gulf of Mexico
Oil and Gas Lease Offering (May 1983)

1. Authority. This Notice is published pursuant to the Outer Continental Shelf (OCS) Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR Part 256, formerly 43 CFR Part 3300; see the Federal Register at 47 FR 47006, October 22, 1982). A revision of those regulations appeared in the Federal Register of June 16, 1982, at 47 FR 25967 and 26031.

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Boulevard, Metairie, Louisiana 70002. Bids may be delivered in person to the above address until the Bid Submission Deadline at 10:00 a.m., c.s.t., May 24, 1983. Bids will not be accepted on May 25, 1983, the day of Bid Opening. Delivery by mail should be addressed to P.O. Box 7944, Metairie, Louisiana 70010, and must be received by the Bid Submission Deadline. Bids received by the Regional Manager later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the Regional Manager prior to 10:00 a.m., c.s.t., May 24, 1983. Bids may not be withdrawn unless written withdrawal is received by the Regional Manager prior to 8:30 a.m., c.s.t., May 25, 1983. Bid Opening Time will be 9 a.m., c.s.t., May 25, 1983, at the Louisiana Superdome, Gate "C", Hyatt Ramp Level, Rooms 3, 4, and 5, 1500 Poydras St., New Orleans, Louisiana. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this offering appears in this issue of the Federal Register immediately following this Notice.

3. Method of Bidding. Tract numbers will not be used. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert offering name/ map number(s) and name(s) (if applicable), and block number(s)), not to be opened until 9:00 a.m., c.s.t., May 25, 1983," must be submitted for each block or prescribed bidding unit bid upon. For example, a block would be identified as follows: "Central Gulf of Mexico (May 1983), NH 16-10, Mississippi Canyon, Block 1009." For those blocks which must be bid on together as a bidding unit (see paragraph 12, below), all block numbers of blocks comprising the bidding unit must appear in the label on the sealed envelope. A suggested bid form appears in 30 CFR Part 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than all of the unleased portions of a block or bidding unit will be considered. Bidders are advised to use the description "All the Unleased Federal Portion" for those blocks having only aliquot portions currently available for leasing. Partnerships also need to submit or have on file a list of signatories authorized to bind the partnership. All documents must be executed in conformance with signatory authorizations on file. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this offering must provide for a cash bonus in the amount of $150 or more per acre or fraction thereof. All leases awarded for this offering will provide for a yearly rental payment of $3 per acre or fraction thereof. The bidding systems to be utilized for this offering apply to blocks or bidding units as shown on the map entitled "Central Gulf of Mexico Lease Offering, May 1983, Stipulations, Lease Terms, and Bidding Systems, Final" available from the Gulf of Mexico OCS Regional Office. Specific requirements of the various systems are as follows:

(a) Bonus Bidding With a Fixed Sliding Scale Royalty. Bids on blocks or bidding units offered under this system must be submitted on a cash bonus basis with the percent royalty due in amount or value of production fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates as follows:

When the quarterly value of production, adjusted for inflation, is less than or equal to $20.873434 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $20.873435 million, but less than or equal to $37,740.050000 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$Rj = b[Ln\ (Vj/S)]$$

where Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 7.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.5

When the adjusted quarterly value of production is equal to or greater than $37,740.060000 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent).

This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar; for example, $49.625834 million.

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of

Figure 1
Form of the Sliding Scale Royalty Schedule

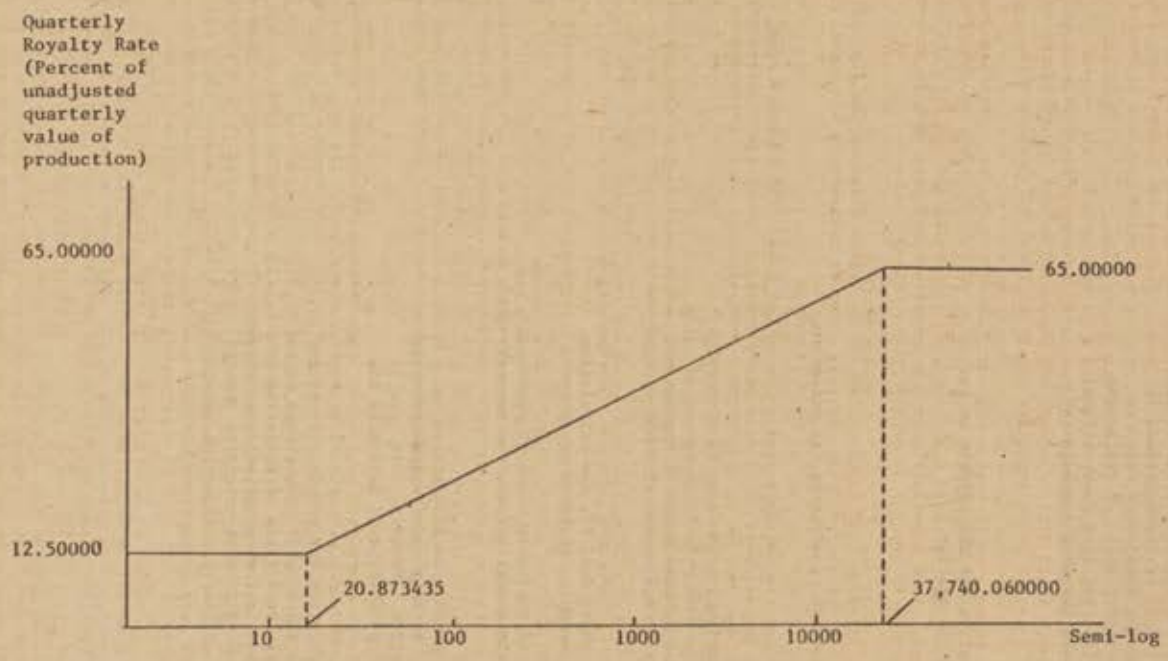

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	12.50000	1.25000
30.000000	200.0	4/3	22.500000	13.02527	3.90758
90.000000	200.0	4/3	67.500000	20.71555	18.64400
270.000000	200.0	4/3	202.500000	28.40584	76.69577
810.000000	200.0	4/3	607.500000	36.09612	292.37857
10.000000	250.0	5/3	6.000000	12.50000	1.25000
30.000000	250.0	5/3	18.000000	12.50000	3.75000
90.000000	250.0	5/3	54.000000	19.15355	17.23820
270.000000	250.0	5/3	162.000000	26.84383	72.47834
810.000000	250.0	5/3	486.000000	34.53412	279.72637

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index. All leases awarded under this system will provide for a minimum royalty of $3 per acre or fraction thereof.

(b) Bonus Bidding with a 12 1/2 Percent Royalty. Bids on the blocks or bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 12 1/2 percent. All lesses awarded under this system will provide for a minimum royalty payment of $3 per acre or fraction thereof.

(c) Bonus Bidding with a 16 2/3 Percent Royalty. Bids on the blocks or bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 16 2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of $3 per acre or fraction thereof.

(d) Bonus Bidding with a Fixed Net Profit Share. Bids on blocks or bidding units offered under this system must be submitted on a cash bonus basis with the fixed net profit share rate and the capital recovery factor indicated on the map entitled "Central Gulf of Mexico Lease Offering, May 1983, Stipulations, Lease Terms and Bidding Systems, Final" as applicable to the block(s) bid upon. The net profit share payment shall be calculated according to regulations currently codified in 30 CFR 261 (formerly 10 CFR 390--originally promulgated by the Department of Energy, 45 FR 36784; see the Federal Register of January 11, 1983, at 48 FR 1181).

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline, stated in paragraph 2 above, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See Item 14, "Information to Bidders."

6. Bid Opening. Bids will be opened starting at the Bid Opening Time, stated in paragraph 2 above. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason (including the number of bids submitted) from opening and announcing any bid before midnight, on the day specified in Bid Opening Time, stated in paragraph 2 above, the Regional Manager will make a determination that: either such a bid will be returned unopened to the bidder as soon thereafter as possible; or that such a bid will be opened and announced on the following day at a time and location to be announced at the original Bid Opening site.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this offering prior to issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted and no lease for any block or bidding unit will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $150 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, or applicable regulations, may be returned to the person submitting that bid by the Regional Manager and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's annual rental, and satisfy the bonding requirements of 30 CFR 256 Subpart I within the time provided in 30 CFR 256.47, as amended. A modification of payments procedures for successful bidders appeared in the latest revision of the regulations discussed in paragraph 1 above. The changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3 above.

11. Leasing Maps/Official Protraction Diagrams. Blocks or bidding units offered for lease may be located on the following Leasing Maps/Official Protraction Diagrams which may be purchased from the Gulf of Mexico OCS Regional Office:

(a) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.

(b) Outer Continental Shelf Official Protraction Diagrams:

NH 16-4 Mobile
NH 16-7 Viosca Knoll
NH 15-12 Ewing Bank
NH 16-10 Mississippi Canyon
NG 15-3 Green Canyon
NG 16-1
NG 15-6 Walker Ridge
NG 16-4
These sell for $2 each.

12. Description of the Areas Offered for Bids.

(a) Acreages of the following types of blocks offered for bid appear on the documents indicated. Acreages of full blocks and partial blocks occurring at the meeting of map borders appear on Leasing Maps and Official Protraction Diagrams (see paragraph 11 above). Acreages of split blocks on the Federal/State boundary appear on the set of drawings entitled "Split Blocks - Central Gulf of Mexico," available from the Gulf of Mexico OCS Regional Office (see paragraph 14 below). Where part of any of the above full, partial or split blocks is under lease (as indicated in (c) below), the acreage available for leasing at this offering is listed in the document entitled "Central Gulf of Mexico Lease Offering (May 1983), Open Acreages for Blocks with Aliquots Under Lease," available from the Gulf of Mexico OCS Regional Office.

(b) In several instances, two or more blocks have been joined together into bidding units totaling less than 5,760 acres. Any bid submitted for a bidding unit having more than one block must be for all of the unleased Federal acreage within all of the blocks in that bidding unit. The list of those bidding units and the total acreage of each one appear on the map entitled "Central Gulf of Mexico Lease Offering, May 1983, Stipulations, Lease Terms and Bidding Systems, Final" available from the Gulf of Mexico OCS Regional Office.

(c) The areas offered for leasing include all those blocks shown on the OCS Leasing Maps and Official Protraction Diagrams listed in paragraph 11 (a) and (b), except for those blocks or parts of blocks described as follows:

(i) Central Gulf of Mexico Leased Lands (NOT available for bidding at this offering):

DESCRIPTIONS OF BLOCKS LISTED REPRESENT ALL FEDERAL ACREAGE LEASED UNLESS OTHERWISE NOTED

Sabine Pass	West Cameron (continued)	West Cameron (continued)	West Cameron West Addition (continued)	West Cameron, South Addition (continued)	West Cameron, South Addition (continued)
3					
4	81	204			
6	83	205	331	509	617
7	90	206	332	510	618
8	91	211	333	513	619
9	92	212	342	518	620
10	94	214	343	519	622
11	95	215	352	522	623
12	96	216	353	523	624
13	97	222	363	525	625
14	101	225	369	528	630
15	102	229	370	530	631
16	106	233	374	531	633
	107	236	376	532	636
West Cameron	109	237	379	533	637
	110	238	380	534	638
17	111	239	392	535	639
18-	112	240	395	536	642
(SW¼)	113	247	405	537	643
20	115	248	406	538	645
21-	116	249	409	540	646
(E½; SW¼SW¼)	118	250	425	541	648
22	126	252	426	542	
23	131	253	427	543	East Cameron
27	132	261	428	547	
28-	135	264	431	548	2
(N½; N½N½S½	136	265	432	549	9-
Zone 2)	137	266	436	551	(E½SW¼;
33	143	277	437	552	SE¼ Zone 2)
34	144	278	442	553	13
35	145	280		560	14-
36	146	281	West Cameron,	561	(N½; NW¼SW¼;
40	147	282	South Addition	563	S½S½)
41 (E½)	148	283		564	16
42	149	284	446	565	23
44-	150		447	569	24
(NW¼NW¼)	153	West Cameron,	459	570	25
46	160	West Addition	463	571	26
47	166		464	573	29
48	167	167	470	574	30
49	170	168	472	575	31
53	171	169	473	576	32
54	172	257	478	586	33
55	173	260	479	587	34
56 (N½)	176	291	480	593	35
58	177	293	486	594	36
59	180	294	487	595	38
63	181	295	488	597	40
64	182 (N½)	296	490	601	42
65	192	300	491	605	43
66	193	305	492	606	44
67	194 (S½)	311	493	608	45
68	197	312	494	609	46
69 (N½)	198	315	496	610	47
70	199	317	499	612	48
71	201	318	504	613	49
72	202	320	507 (N½)	613	50
73	203	330	508	614	51

Central Gulf of Mexico Leased Lands (NOT available for bidding at this offering), continued:

East Cameron (continued)

56
57
58
63
64
65
66
67
71
72
76
81
82
83 (NW¼)
88
89
90
94
96
97
104
105
106
118
119 (N½)
128
129
130
131
142
160 (E½)
194–
(E½E½SE¼)
195 (S½)
204–
(N½N½)
213
215
220
222
229
231
232

East Cameron, South Addition

237
239
240
243
249
254
255
257
258
259
260
261
262
263
264

East Cameron South Addition (continued)

263
267
270
272
273
276
280
281
286
294
321
322
323
330
331
334
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351
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354
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365
370
371

Vermilion

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24
25
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28
30
31
33
34
35
36
37
38
39
40
42
43
44
45
46 (S½)
47
50

Vermilion (continued)

51
52
54
56
57
58
59
60
61
64
65
66
67
69
71
72
73
75
76
77
78
79
83
84
86
91
100
101 (S½)
102
103
104
114
115
118
119
120
122
124
131
144
145
146
147
152
153
155
156
158
161
164–
(E½NE¼SW¼;
NE¼SE¼SW¼;
S½NE¼SE¼;
W½SE¼;
SE¼SE¼)
166
167
170
171
173
176–
(W½SW¼NW¼;

Vermilion (continued)

176 (cont'd)
SW¼NW¼;
N½SW¼SW¼)
179
182
190
191
197
201
202
213
214
215
217–
(SW¼;
W½W½SE¼)
219–
(E½SE¼;
E½NW¼SE¼;
NE¼SW¼SE¼)
221
222
225–
(E½NE¼;
NE¼SE¼)
226
228
241
242
245
246
247
248
250
251

Vermilion South Addition

253
254
256
257
258
260
261
262
263
264
265
267
268
271
273
276
277
280
282
287
289
292

Vermilion South Addition (continued)

295
296
297
302
303
306
310
311
313
315
318
320
321
325
326
327
329
330
331
332
336
337
338
339
340
348
350
369
370
372
375
380
381
386
392
397
407

S. Marsh Island, North Addition

207
208
209
210
211
212
213
214
215
216
217
218
219
220
221–
(Landward of lease 0310 stip. line)
222
223
224

S. Marsh Island, North Addition (continued)

225
226
227
228
229
230–
(Landward of lease 0310 stip. line)
231
232
234
235
236
237
238
239
240
241–
(Landward of lease 0310 stip. line)
243
245
344
245
246
249
250
252
253–
(Landward of lease 0310 stip. line)
253
256
257
260
261
264
265
266
269
273
274
280
281
282
287
288

S. Marsh Island

6
7
8
9
10
11
16
22

Central Gulf of Mexico Leased Lands (NOT available for bidding at this offering), continued:

S. Marsh Island (continued)

23
27
29
33
41
45
49
50
51
57
58
60
61
65
66
67
69

S. Marsh Island, South Addition

72
73
75
76
78
90
95
96
97
98
99
106
106
107
108
109
112
113
114
115
116
118
119
120
122
124
125
127
128
130
131
132
133
136
137
139
141
142
143

S. Marsh Island, South Addition (continued)

144
146
149
150
155
156
157
160
161
162 (E½)
172
173
174
175
176
178
9
10
19–
(W½W½SE¼;
W½E½SE¼—Seaward of the 1975 decree line)
20
21
22
23
24
25
26
27
29
30
32
33
38
39
41
42
43
44
45
46
47
49
50
51
52
53
56
57
58
62
63
64
65 (E½)
71
72

Eugene Island

Eugene Island (continued)

74
76
77
79
80
84
88
89
90
95
99
105
106
107
108
113A
116
119
120
125
126
128
128A
129
133
135
136
142
146
147
151
152
154
156
158
159
160
164
174
175
176
181
182
188
189
190
191
193
196
198
199
204
209
206
208
214–
(W½W½E½; W½

Eugene Island (continued)

215
217
218
219
227
230
231
237
238
252
253–
(W½SW¼NW¼)
254 (S½)
255 (S½)
256
257
258
259
260 (SE¼)
261
266

Eugene Island South Addition

267
269
272
273
274
275
276
278
279
284
285
286
289
292
293
294
295
296
297
298
299
300
301 (S½)
303
305
306
307
308

Eugene Island South Addition (continued)

309
311
312
313
314
315
316
320
321
322
327
328
330
331
332
333
337
338
339
342
343
345
348
349
351
352
353
354
360
361
363
364
365
367
372
374
375
377
380
384
385
392
393
396

Ship Shoal

13
14
15
25–
(Seaward of Zone 2)
26 (SE¼)
27
28
29
30
31

Ship Shoal (continued)

32
33
34
35
37
50
55
61
62
63
64 (W½)
68
69
71 (W½)
72
73
78
81
84
86
87 (N½)
91
93
94–
(S½NE¼, SE¼ Zone 2)
99
102
108
112
113
114
115
117 (N½)
118
119
120 (E½)
128
130
133
134
135
136
145
148
148
149
150
154
156
157
158
164
167
168
169
170
176
177
181
182

Central Gulf of Mexico Leased Lands (NOT available for bidding at this offering), continued:

Ship Shoal (continued)

183
186
187
188
189
198
199
204
205
206
207
208
209
210
211
214
215
216
217
218
219
222
223
224
225 (N½)
229
230
232
233

Ship Shoal, South Addition

237
238
239
240
241
242
246
247
248
249
250
251
252
253
259
266
269
270
271
272
274
278
290
291–
(N½; SE¼)
292
293
295
302

South Timbalier

1
16
21
22
23
24
25
26
27
28
29
31
34
35
36
37
38
47
48
50
51–
(Seaward of Zone 3)
52
53
54
55
58
63
86
87
69
70
71
75
76
77
86
87
125
126
130
131
133
134
138
146
147

South Timbalier (continued)

148
151
152
156
160
161
162
163
164
165
166
169
170
171
172
173
175
176
177
182
183
184
185
186
188 (NW¼)
189
190
192
195
196
200
202
209

South Timbalier, South Addition

217
220
225
228
251
263
264
266
270
274
284
287
292
293
297
298
299
300
301
314

South Pelto

1
2

South Pelto (continued)

3
9
10
11
12
13
15
19 (W½)
20
21
23
24
25

Bay Marchand

2
3

Grand Isle

8
9
10
11
12
13
15

West Delta

19 (W½)
20
21–
(S½N½SE¼; S½SE¼)
22 (E½)
23
24
25
26
27
28
29
30
31
32
33
34
35
36 (NE¼)
40
41
42
43
44
45
46
47
50
51–
(SW¼SW¼)
57
58
59
60
61
62
63
67
68 (S½)
69
70
71
73
74
75
76
79
80 (N½; N½S½; SW¼SW¼)
85
86
87 (S½)
88
89
90
91
92

Grand Isle, South Addition

West Delta (continued)

91
92
93
99
100
102
103
104
105
107
109

West Delta, South Addition

117
118
132
133
134
137
138
143
147
148
152

South Pass

6
17
27
36
37
38
39
43
44
45
48
49
50
51
54
58–
(Seaward of 1965 Decree Line)
66
67
68
69
72
73
74
77
78
80
81

Central Gulf of Mexico Leased Lands (NOT available for bidding at this offering), continued:

South Pass, South & East Addition

63
64
65
66–
(Seaward of 1965 Decree Line)
67
69
70
72
75
77
79
83
88
93
94

Main Pass

6
7–
(W½; N½S½; Seaward of 1975 Decree Line)
18 (S½)
19
27
28
29
30
37
38
39
40
41
42
43–
(N½; W½NE¼SW¼; NW¼SW¼)
44–
(SE¼NE¼; NE¼SE¼)
55
56
57
58 (N½)
59–
(Portion Landward of Zone 3 Line)
60
64
69
72
73
74
77
78
86
87
91
92

Main Pass (continued)

95
96
100
102
103
104–
(NW¼; N½SW¼)
106–
(N½N½; N½S½NW¼; SE¼SE¼NE¼; E½E½SE¼)
107–
(NW¼NE¼NE¼; NE¼NW¼NE¼; W½W¼E½; W½)
108
110
111
112
113–
(E½E½NE¼; E½NE¼SE¼)
114
115
116
117
118
119
120
121
122
125
126
127 (N½)
128
129
132
133
140
141
142
144
145
148
149
150
151
152–
(Seaward of 1965 Decree Line)
153

Main Pass, South & East Addition

Main Pass, South & East Addition (continued)

24
25
256
273
277
278
288
289
290
293
296
298
299
300
301
303
304
308
309
310
311
312
313

Ewing Bank

304
305
306
308
309
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312
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314
315
316
317
318
319
320
321
322
323
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325
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358
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360
361
362
363
364
365

Breton Sound

Chandeleur

17
25
32

Mobile

Viosca Knoll

55
56
57
58
59
60
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62
63
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66
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72
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(d) Although currently unleased and shown on the OCS Official Protraction Diagram Mobile NH 16-4 (Approved October 10, 1972; Revised December 21, 1977), no bids will be accepted on the following blocks:

Mobile—Blocks	629 through 632
	671 through 679
	681
	686 through 688
	718 through 720
	722
	729 through 732
	765 through 768
	809 through 816
	818 through 820
	825
	860

13. Lease Terms and Stipulations.

(a) Leases resulting from this offering will have initial terms as shown on the map entitled "Central Gulf of Mexico Lease Offering, May 1983, Stipulations, Lease Terms, and Bidding Systems, Final" and will be on Form MMS-2005 (August 1982) (formerly Form 3300-1). Copies of the map and forms are available from the Gulf of Mexico OCS Regional Office.

(b) For leases resulting from this offering for blocks offered on a cash bonus basis with a fixed net profit share, Form MMS-2005 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."

Sec. 5 Minimum Royalty. Hereby deleted.

Sec. 6 Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of ___ percent with a ____ capital recovery factor, calculated pursuant to 30 CFR 261.

(c) For leases resulting from this offering for blocks offered on a cash bonus basis with a fixed sliding scale royalty, Form MMS-2005, will be amended as follows:

Sec. 6 Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $20.873434 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $20.873435 million, but less than or equal to $37,740.050000 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b\,[\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of production in quarter j

b = 7.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.5

When the adjusted quarterly value of production is equal to or greater than $37,740.060000 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 49.625834 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(d) The applicability of Stipulation Nos. 1 through 4 that will be included in leases resulting from this offering is as shown on the map entitled "Central Gulf of Mexico Lease Offering, May 1983, Stipulations, Lease Terms, and Bidding Systems, Final" available from the Gulf of Mexico OCS Regional Office. In all stipulations, the term RM refers to the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service.

Stipulation No. 1

If the RM has reason to believe that a site, structure, or object of historical or archeological significance, hereinafter referred to as "cultural resource," may exist in the leased area and gives the lessee written notice that the lessor is enforcing the provisions of this stipulation, the lessee shall, upon receipt of such notice, comply with the following requirements:

(1) Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys and/or prepare a report, as specified by the RM, to determine the potential existence of any cultural resource that may be affected by such operation. All data produced, as well as other pertinent natural and cultural environmental data, shall be examined by an archeologist and geophysicist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of such surveys and assessments prepared by an archeologist and geophysicist shall be submitted by the lessee to the RM.

(2) If such cultural resource indicators are present, the lessee shall: (a) locate the site of the lease operation so as not to affect adversely the identified location; or (b) establish to the satisfaction of the RM, on the basis of further archeological investigation conducted by an archeologist and geophysicist using such survey equipment and techniques as deemed necessary by the RM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

(3) A report of the latter investigation prepared by the archeologist and geophysicist shall be submitted to the RM for review. Should the RM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the RM has given direction as to its protection.

In addition, the lessee agrees that if any cultural resource should be discovered during the conduct of any operation on the leased area, he shall report immediately such findings to the RM and make every reasonable effort to protect the cultural resource until the RM gives directions as to its protection.

Stipulation No. 2

(In the Central Gulf of Mexico, Biological Stipulation No. 2 will be included in leases located in the areas so indicated. The high relief banks with their appropriate no activity isobath are as follows:

Bank Name	Isobath (meters)
18 Fathom Lump	85
Bouma Bank	85
Rezak Bank	85
Sidner Bank	85
Sonnier Bank	55
Sackett Bank	85
Ewing Bank	85
Diaphus Bank	85
Alderdice Bank	80
Parker Bank	85
Fishnet Bank	76
Jakkula Bank	85
Sweet Bank[1]	85
28 Fathom Bank	85
29 Fathom Bank	64
Bright Bank	85
Geyer Bank[2]	85
MacNeil Bank[2]	82

[1] Sweet Bank will contain only the first sentence of Stipulation No. 2.

[2] Western Gulf of Mexico bank with portion of "3 Mile Zone" in Central Gulf of Mexico.)

No structures, drilling rigs, or pipelines will be allowed within the listed isobath of the Banks listed above.

Operations within the area shown as "1 Mile Zone" shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

Operations within the area shown as "3 Mile Zone" shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the Regional Manager (RM) on a schedule established by the RM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the RM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation No. 3

(In the Central Gulf of Mexico, Biological Stipulation No. 3 will be included in leases located in the areas so indicated.)

Prior to any drilling activity or the construction or placement of any structure for exploration or development on this lease, including but not limited to well drilling and pipeline and platform placement, the lessee will submit to the Regional Manager (RM) a bathymetry map, prepared utilizing remote sensing and/or other survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 m radius of a proposed exploration or production activity site.

For the purpose of this stipulation, "live bottom areas" are defined as those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, seagrasses, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the RM photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the RM will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas. These measures may include but are not limited to the following:

(a) the relocation of operations to avoid live bottom areas;

(b) the shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;

(c) the transportation of drilling fluids and cuttings to approved disposal sites;

(d) the monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation No. 4

(The following stipulation is required of the lessee for operations within each warning area:

Warning Areas Command Headquarters
Central Planning Area

Warning Areas	Warning Areas Command Headquarters
W-155	Naval Air Training Command Training Wing Six Naval Air Station Pensacola, Florida
W-453	Air National Guard Training Site Gulfport, Mississippi
W-92	Naval Air Station New Orleans, Louisiana)

Hold Harmless

Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any Agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the command headquarters listed in the table above.

Nothwithstanding any limitation of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

Electromagnetic Emissions

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the command headquarters listed in the above table to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities, conducted within individual designated warning areas. Necessary monitoring control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emission shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Operational

The lessee, when operating or causing to be operated on its behalf, boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the individual command headquarters listed in the above table, on utilizing an individual designated warning area prior to commencing such traffic. Such an agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

Stipulation No. 5.

(To be included only in the leases resulting from this offering with the sliding scale royalty bidding system, as indicated on the map entitled "Central Gulf of Mexico Lease Offering, May 1983, Stipulations, Lease Terms and Bidding Systems, Final.")

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Minerals Management Service, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for 1 year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16 2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in section 15(d) of this lease; the royalty on any portion of the production from the lease in excess of 16 2/3 percent may only be taken in value of the production from the lease.

Stipulation No. 6.

(To be included only in the leases resulting from this offering under the net profit share bidding system, as indicated on the map entitled "Central Gulf of Mexico Lease Offering, May 1983, Stipulations, Lease Terms, and Bidding Systems, Final.")

The net profit share payment specified in section 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more than 16 2/3 percent of the production from the lease area may be taken as a net profit share payment in amount, except as provided in section 15(d) of this lease; additional net profit share payments shall be calculated to include the value of such production in excess of 16 2/3 percent.

14. Information to Bidders.

(a) There is available from the Gulf of Mexico OCS Regional Office a set of drawings entitled "Split Blocks - Central Gulf of Mexico," depicting the State-Federal boundary, including the acreage on the Federal side of the line. For complete information on any of the subjects mentioned in this Notice, including copies of the various documents identified as available from the Gulf of Mexico OCS Regional Office, prospective bidders should contact the Regional Supervisor for Leasing, Environment and Studies, at the address stated in paragraph 2, either in writing or by phone (504) 837-4720.

(b) Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended; or in connection with the Louisiana Offshore Oil Port (LOOP), for

blocks 57 and 59, Grand Isle area. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4 (e) of the OCS Lands Act, as amended.

(c) Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(d) Bidders are advised that in accordance with section 16 of each lease offered at this offering, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate, a royalty rate based on a sliding scale, or a net profit share payment.

(e) For those blocks identified as having lease terms with an initial period of more than 5 years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to MMS either an exploration plan, where required, or a general statement of exploration intention prior to the end of the ninth lease year.

(f) Revisions of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this offering, section 18 of the lease form, Form MMS-2005 (August 1982), would be deleted from leases resulting from this offering. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(g) Bidders are cautioned as to the existence of two inactive ordnance disposal areas in the Mississippi Canyon area, shown on the map entitled "Central Gulf of Mexico Lease Offering, May 1983, Stipulations, Lease Terms, and Bidding Systems, Final." These areas were used to dispose of ordnance of unknown composition and quantity. The westernmost area has not been used for over 15 years. Water depths in this area range from 185 to 675 meters. The easternmost area was last used for ordnance disposal in 1970. Water depths in this area range from 750 to 1,525 meters. Bottom sediments in both areas are generally soft, consisting of silty clays. Exploration and development activities in these areas require precautions commensurate with the potential hazards.

15. OCS Orders. Operations on all leases resulting from this offering will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

16. OCS Bid Adequacy Procedures. The following system of OCS bid adequacy procedures will be used for this offering. The system is composed of two phases. Phase 1 includes market-oriented evaluation criteria for accepting some bids on blocks or bidding units and determining what other bids will receive further evaluation in Phase 2 according to the traditional bid adequacy procedures. Phase 2 utilizes an independent Government evaluation and the traditional bid adequacy rules based upon the Mean Range of Values (MROV), Discounted Mean Range of Values (DMROV), and Geometric Average Evaluation of the Tract (GAEOT) (a tract being a block or bidding unit).

Phase 1

Phase 1 is composed of criteria designed to partition blocks or bidding units receiving bids into three general categories:

* Those receiving bids which MMS has identified as being non-prospective blocks;

* Those where opportunities for strategic underbidding, information asymmetry, collusion, and other noncompetitive practices might most likely occur and where the Government has the most detailed and reliable data; and

* Those where the competitive market forces can be relied upon to assure fair market value.

It has been determined that the following four Phase I criteria will be applied:

1. High bids on all blocks or bidding units classified by MMS as being either development or drainage will be referred directly for further evaluation using the traditional criteria.

2. All legal high bids for blocks or bidding units judged by MMS to be not located on a viable prospect will be accepted.

3. After screening for anomalously low bids through application of the "one-eighth rule," 1/ legal high bids will be accepted for prospective wildcat and proven blocks or bidding units receiving three or more bids and more than the average number of bids for prospective blocks or bidding units bid upon in the offering, i.e., whichever is more.

1/ Anomalously low bids will not be included in the bid number; e.g., if the lowest bid on a block or bidding unit is less than 1/8th of the next lowest bid, the lowest bid will not be included in the number of bids. This rule can exclude no more than one bid for a given block or bidding unit.

4. After adjusting for anomalously low bids through application of the "one-eighth rule," all legal high bids will be accepted for prospective wildcat and proven blocks or bidding units where the geometric average bonus bid for the block or bidding unit is in the upper 50th percentile for prospective wildcat and proven blocks or bidding units receiving bids.

Phase 1 will be conducted block-by-block or bidding unit-by-bidding unit, and it is expected that Phase 1 should be completed within 3 days of the Bid Opening.

Phase 2

All prospective wildcat and proven blocks or bidding units which are not accepted as a result of the application of the Phase I criteria and all drainage and development blocks or bidding units will receive further evaluation via the traditional bid adequacy procedures currently in effect, i.e., high bids will be compared to the MBOV, DMROV, and GAEOT. While it is expected that most analyses would be undertaken based upon data available at the time of the offering, additional geological and geophysical analyses, including additional mapping, can be undertaken post-offering at the discretion of the Regional Manager.

The bid adequacy recommendations developed in Phase 2 should be completed within 3 weeks of the offering.

Since the inception of the OCS leasing program, the Department has continually sought to improve upon techniques which determine bid adequacy. Much of the best information regarding the fair market value of a block or bidding unit is that which is available through observing the market for leases. The above procedures are designed to make better use of that information.

APR 4 1983

Director, Minerals Management Service
Harold Doley

Approved:

James G. Watt

Secretary of the Interior
James G. Watt

APR 6 1983

Date

[FR Doc. 83-9428 Filed 4-11-83; 8:45 am]
BILLING CODE 4310-MR-C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice on Outer Continental Shelf Oil and Gas Lease Offerings; List of Restricted Joint Bidders

This notice supersedes the List of Restricted Joint Bidders published in the Federal Register on October 6, 1982, at 47 FR 44166. Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf Oil and Gas Lease Offerings to be held during the bidding period of May 1, 1983, through October 31, 1983.

Group I: Chevron U.S.A. Inc.; Standard Oil Company of California.

Group II: Exxon Corporation.

Group III: Mobil Oil Corporation; Mobil Oil Exploration & Producing Southeast Inc.; Mobil Producing Texas & New Mexico Inc.

Group IV: MTS Limited Partnership (Mesa Petroleum Co., Texaco Inc., and Sequoia Petroleum); Texaco Inc.

Group V: Shell Offshore Inc.; Shell Oil Company.

Director, Minerals Management Service

4-4-83
Date

Harold Lerblance is a true copy of the original

Bernadette Cavalier
Certifying Officer

[FR Doc. 83-9427 Filed 4-11-83; 8:45 am]

BILLING CODE 4310-MR-C

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
Minerals Management Service
Outer Continental Shelf
Central Gulf of Mexico

Notice of Leasing Systems, Lease Offering (May 1983)

Section 8(a)(8) (43 U.S.C. 1337 (a)(8)) of the Outer Continental Shelf Lands Act (OCSLA), as amended, requires that, at least 30 days before any lease offering, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and
(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

(A) Bidding systems to be used. In Outer Continental Shelf (OCS) Central Gulf of Mexico Lease Offering (May 1983), blocks will be offered under the following four bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337 (a) (1)): (1) bonus bidding with a fixed net profit share, (2) bonus bidding with a fixed sliding scale royalty, (3) bonus bidding with a fixed 12 1/2 percent royalty, and (4) bonus bidding with a fixed 16 2/3 percent royalty.

(1) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by section (8)(a)(1)(D) of the OCSLA, as amended. The fixed net profit share system has been used in 12 previous OCS sales or lease offerings. Bids on blocks or bidding units under this system must be submitted on a cash bonus basis with the fixed net profit share rate and the capital recovery factor as indicated for the specific blocks on the map entitled "Central Gulf of Mexico Lease Offering (May 1983)--Stipulations, Lease Terms and Bidding Systems, Final." The net profit share parameters are the same as those specified for previously leased adjacent blocks using this system in the lease offering area. The blocks offered under this system in this lease offering are adjacent to and may share common structures with previously leased net profit share blocks. Use of this system will assist in the administration and possible unitization of this lease offering's net profit share blocks with adjacent blocks previously leased under this system. The profit share system may promote the more complete development of fields when compared to a royalty system as the Government shares more of the risk, and the lessee's incremental costs are lower in the presence of capital recovery.

(2) Bonus Bidding with a Sliding Scale Royalty. This system is authorized by section (8)(a)(1)(C) of the OCSLA, as amended. The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The fixed sliding scale formula provided for the Central Gulf of Mexico Lease Offering (May 1983) is based on an expected range of costs and wellhead prices for this area.

The fixed sliding scale formula operates in the following way:

When the quarterly value of production, adjusted for inflation, is less than or equal to $20.873434 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $20.873435 million, but less than or equal to $37740.050000 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$Rj = b\,[\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 7.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.50

When the adjusted quarterly value of production is equal to or greater than $37740.060000 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64.

(3) Bonus Bidding with a 12 1/2 Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been chosen for certain deeper water blocks proposed for the Central Gulf of Mexico Lease Offering (May 1983) because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water tracts. Department of the Interior analyses indicate that the

minimum economically developable discovery on a block in such high cost areas under a 12 1/2 percent royalty system would be less than for the same blocks under a 16 2/3 percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to yield more rapid production and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary constraints to competition.

(4) Bonus Bidding with a 16 2/3 Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration.

(B) Designation of Blocks. The selection of blocks to be offered under the four systems was based on the following factors:

(1) Lease terms on adjacent, previously leased blocks were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.
(2) Generally, blocks in deep water were selected for 1/8 royalty based on the favorable performance of this system in these high cost areas.

The specific blocks to be offered under each system are as shown on the map entitled "Central Gulf of Mexico Lease Offering (May 1983)--Stipulations, Lease Terms and Bidding Systems, Final," available from the Gulf of Mexico OCS Regional Office. The systems used for this offering are as described in paragraph (A), Bidding systems to be used.

Director, Minerals Management Service
Harold Doley

Approved: APR 6 1983

James G. Watt
Secretary of the Interior
James G. Watt

Certified to be a true copy of the original

Certifying Officer

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federal register

Tuesday
April 12, 1983

Part III

Department of Labor

Wage and Hour Division

Interim Migrant and Seasonal Agricultural Worker Protection Regulations; Final Rule

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 500

Interim Migrant and Seasonal Agricultural Worker Protection Regulations

AGENCY: Wage and Hour Division, Labor.

ACTION: Interim regulations with request for comments.

SUMMARY: This document provides interim regulations for the implementation of the recently enacted Migrant and Seasonal Agricultural Worker Protection Act (Pub. L. 97–470) 29 U.S.C. 1801 *et seq.*, which becomes effective on April 14, 1983. The Act directs the establishment of rules and regulations for the issuance of certificates of registration for persons engaging in farm labor contracting activities. It also requires the issuance of regulations ensuring the establishment of protections for migrant and seasonal agricultural workers by persons utilizing the services of such workers. The Department has had frequent consultations with interested groups in preparing these regulations and has obtained their comments on the issues involved.

DATES: These regulations become effective on April 14, 1983. They will remain in effect not longer than 120 days thereafter (August 12, 1983) unless withdrawn, extended or superseded by another issuance. Comments (in triplicate) must be received by May 12, 1983.

ADDRESS: Submit comments (in triplicate) to Mr. William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8305.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8305.

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1983, the Migrant and Seasonal Agricultural Worker Protection Act—Pub. L. 97–470, 29 U.S.C. 1801 *et seq.* (MSPA)—was signed into law to improve Federal protection of migrant and seasonal agricultural workers. This new law was the culmination of 18 months of cooperative efforts by the Department of Labor, key members of Congressional committees and their staffs, major agricultural employer organizations, the AFL–CIO and the Migrant Legal Action Program to bring about needed reform in this area. The Administration's bill, which was the result of these efforts, was transmitted to the Congress by Secretary of Labor Raymond J. Donovan on September 1, 1982. The bill passed without substantive change and was signed into law by President Reagan on January 14, 1983. The new law replaces the Farm Labor Contractor Registration Act of 1963, as amended (FLCRA), which it will repeal on April 14, 1983.

Summary of Rule

The regulations are divided into six subparts. Subparts A through E contain the substantive regulations relating to farm labor contractors, agricultural employers and agricultural associations. Subpart F sets forth the rules of practice for administrative hearings and discusses the procedures for challenging a proposed administrative action relating to violations as well as the collection and recovery of civil money penalty assessments.

Subpart A sets forth the purpose and scope of the Act, the transition provisions and effective date, the definitions and exemptions and other general provisions. Special attention should be given to §§ 500.20 and 500.30 of Subpart A, which contain the definitions and exemptions which the Department will apply in administering the Act.

Section 500.20 contains the definitions to be used in the regulations. Generally, these definitions and exemptions are drawn directly from the statute. Additional definitions and some clarifying language are provided, however, in order to facilitate the public's understanding of how the law will be administered and to take account of legislative history pertaining to the law.

While not repeating in this Preamble all the definitions, it is important to understand that several employment related definitions are adopted from the Fair Labor Standards Act (FLSA), which is the federal minimum wage law.

Specifically, § 500.20(h) defines the terms "employ", "employer" and "employee" as having the same meanings that such terms have under the Fair Labor Standards Act (FLSA). Section 500.20(h) also discusses the concept of "joint employment" which is applicable under the Act by reason of the adoption of "employ" from the FLSA.

The "joint employment" principle under the FLSA provides that an individual may stand in the position of an employee to two or more employers, (e.g., a farm labor contractor and another agricultural employer) at the same time. Under the "joint employment" principle, all of the joint employers of an individual worker are equally responsible for assuring compliance with the appropriate provisions of the Act. The existence of a joint employment situation and the sharing of these responsibilities does not mean, however, that an agricultural employer or agricultural association becomes a farm labor contractor and therefore responsible for meeting the special requirements of the Act and these regulations pertaining to farm labor contractors. Nor does it mean that such an employer becomes responsible for meeting requirements under the Act which are applicable to transportation provided to a migrant or seasonal agricultural worker by a farm labor contractor; responsibilities for transportation are established separately in the transportation provisions of these regulations.

Section 500.30 lists the persons who are not subject to the Act. Although clarifying language is added at certain points, this list is taken directly from the Act and incorporates the statutory language. It includes:

(1) Individuals who engage in farm labor contracting activity on behalf of farms, processing establishments, seed conditioning establishments, canneries, gins, packing sheds, or nurseries, which are owned or operated exclusively by the individuals or their immediate family members; (2) persons, other than farm labor contractors, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 is applicable; (3) common carriers; (4) labor organizations; (5) nonprofit charitable organizations and public or private nonprofit educational institutions; (6) persons who are engaged solely in local farm labor contracting activity; (7) custom combine, hay harvesting or sheep shearing operations; (8) custom poultry harvesting, breeding, debeaking, desexing, or health service operations; (9) persons who supply full-time students or other individuals to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, and the persons to whom such students or other individuals are supplied; (10) persons who supply full-time students or other individuals to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, and the

persons to whom such students or other individuals are supplied; and (11) employees of any of these exempt persons in (3) through (10) when performing farm labor contracting activities exclusively for such persons.

Based on rules and interpretations under the FLSA, the small business exemption applies to persons who are also exempt under the FLSA man-days rule. Thus, the small business exemption in MSPA applies to an agricultural employer who did not, during any calendar quarter of the preceding calendar year, use more than 500 man-days of agricultural labor.

Special attention should also be given to certain other sections of Subpart A. Section 500.3 sets forth April 14, 1983 as the effective date of the Act and indicates that, as provided in the statute, the Farm Labor Contractor Registration Act will be simultaneously repealed on that date.

As will be noted in the discussion of the registration requirements contained in Subpart B, certificates which are in effect under FLCRA on April 14, 1983 will be continued in effect for the remainder of calendar year 1983. Actions which are pending on April 14, 1983, to deny a certificate under FLCRA will be continued through to final determination. As provided in Subpart F, determinations to assess civil money penalties and requests which are pending for hearings related to civil money penalties under FLCRA on April 14, 1983, will also continue through to final determination.

Subpart B sets forth the registration and related requirements of the Act for farm labor contractors, as well as certain special obligations and prohibitions which the Act imposes on them. These provisions under MSPA are essentially the same as their predecessor provisions under FLCRA. The one major difference is that under MSPA, certificates will not all expire on the same date [December 31 of each calendar year].

In addition to requiring farm labor contractors to register, the Act imposes other special obligations and prohibitions on them. It prohibits farm labor contractors from recruiting, hiring, employing or using an alien not lawfully admitted for permanent residence in the United States or authorized by the Attorney General to accept employment. Sections 500.58 and 500.59 of Subpart B indicate that engagement of such illegal aliens is a violation of the Act and set out the documentation which a contractor may rely upon in determining whether a prospective employee is a citizen of the United States or is lawfully authorized to work in the United States. The documentation prescribed as acceptable evidence is the same documentation which the Department prescribed for purposes of the illegal alien provision of FLCRA. A contractor can demonstrate good faith reliance on such documentation by executing a written affirmation that he relied on a particular document listed.

Other special statutory obligations imposed on farm labor contractors are set out in proposed § 500.60. These obligations, which apply both to the farm labor contractors and their employees, require farm labor contractors to (1) provide to agricultural employers or associations and to other farm labor contractors to whom they furnish agricultural workers copies of all records which they are required under the Act to retain on such workers; (2) obtain and make available to every worker they furnish, at the place of employment, a written statement of the terms and conditions of employment; (3) abide by agreements they have made with agricultural employers or agricultural associations pertaining to any contracting activity or worker protection under the Act; and (4) retain all payroll records which they make on workers for three years.

Subparts C and D set out the worker protection standards provided under the Act and the obligations of farm labor contractors, agricultural employers and agricultural associations for providing those protections to migrant and seasonal agricultural workers.

Subpart C sets forth the standards and obligations for disclosure of employment and housing information and for recordkeeping. It also sets forth several general obligations provided in the Act for the protection of migrant and seasonal agricultural workers. Subpart D sets forth the standards and obligations for vehicle safety and insurance, and housing safety and health.

Subpart C begins by setting forth the general statutory obligations referred to above. These are contained in § 500.71 through 500.73. Section 500.71 states that the Act prohibits any person from utilizing the services of a farm labor contractor to supply agricultural workers without first taking reasonable steps to ascertain that the contractor possesses a certificate of registration from the Department of Labor authorizing the activity for which the contractor is to be utilized. The regulations state that in making the determination about the contractor's status, the person may rely upon a contractor's possession of a certificate which is valid on its face or may confirm the contractor's status through a central registry of all registered contractors maintained by the Department of Labor.

Subpart C also provides that each farm labor contractor, agricultural employer and agricultural association which recruits any *migrant* agricultural worker must ascertain and disclose to the worker, in writing, *at the time of recruitment*, the following information: (1) The place of employment; (2) the wage rates to be paid; (3) the crops and kinds of activities on which the worker may be employed; (4) the period of employment; (5) the transportation, housing, and any other employee benefits (such as workers' compensation and unemployment insurance) to be provided, if any, and any costs to be charged for each of them; (6) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and (7) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

Each farm labor contractor, agricultural employer and agricultural association which recruits any *seasonal* agricultural worker must disclose the same information to such worker as they are required to disclose to a migrant agricultrual worker. However, disclosure to a seasonal worker is upon request by the worker *at the time an offer of employment is made*. If, however, the seasonal agricultural worker is recruited through a day-haul operation for employment in canning, packing, ginning, seed conditioning or related research, or processing operations, the employment information must be disclosed to the worker in writing at the time of recruitment. Disclosure is not dependent on a request by the worker in this case.

Each farm labor contractor, agricultural employer and agricultural association which provides housing to any migrant agricultural worker must also disclose, either by posting it in a conspicuous place at the site of the housing or by presenting it to the migrant agricultural worker in the form of a written statement, the terms and conditions of occupancy of the housing. The information to be disclosed includes: (1) The name and address of the farm labor contractor, agricultural employer or agricultural association providing the housing; (2) the name and address of the individual in charge of the housing; (3) the mailing address and

phone number of the housing facility; (4) who may live at the housing facility; (5) the charges to be made for housing; (6) the meals to be provided and the charges to be made for them; (7) the charges for utilities; and (8) any other charges or conditions of occupancy.

Each farm labor contractor, agricultural employer and agricultural association which employs any migrant or seasonal agricultural worker must post and maintain at the place of employment a poster, which will be available from the Department of Labor, outlining the rights and protections of workers under the Act, and must also, upon request of any worker, provide a written statement of the conditions of employment to such worker. Under the Act and these regulations, workers have the right to request information on the conditions of employment at any time during the period of employment. In a joint employment situation, each employer is responsible for assuring the posting of the MSPA poster and for assuring the provision of written statements on the conditions of employment. Needless duplication of effort is not required in this regard by such joint employers.

A farm labor contractor, agricultural employer or agricultural association who provides housing to any migrant agricultural worker must either post the occupancy terms and conditions or provide each worker a written statement of them.

Each farm labor contactor, agricultural employer and agricultural association which is required to disclose employment and housing information must ascertain and provide full and accurate information to the worker. Moreover, all written disclosures of information must be in English or, as necessary and reasonable, in Spanish or another language common to the worker. As set out in the statute and the regulations, it is a violation of the Act to knowingly provide false and misleading information to a worker. Optional forms will be available from the Department of Labor which may be used for making any written disclosures to workers.

Sections 500.80 and 500.81 of Subpart C set forth the wage payment and payroll recordkeeping requirements of the Act. Each farm labor contractor, agricultural employer and agricultural association which employs any migrant or seasonal agricultural worker must make and keep specified payroll records. All payroll records must be maintained and preserved by the farm labor contractor, agricultural employer or agricultural association for at least three years.

In addition to making and keeping such payroll records, the farm labor contractor, agricultural employer or agricultural association must provide each migrant and seasonal agricultural worker with an itemized written statement of the information in the payroll records when the worker is paid. Optional forms will be available from the Department of Labor which may be used to make these itemized written statements to workers. As set out in the regulations, workers must be paid their wages when due, but in no event less often than every two weeks (or semi-monthly).

Subpart D sets out the standards for transportation safety and insurance. Under these provisions, each farm labor contractor, agricultural employer and agricultural association which uses, or causes to be used any vehicle to transport a migrant or seasonal agricultural worker is required to ensure that such vehicle conforms to vehicle safety standards prescribed by the Secretary of Labor and with other applicable Federal and State safety standards. An insurance policy or liability bond must also be in effect which insures against liability for damage to persons or property arising from the use of such vehicle to transport migrant or seasonal agricultural workers. The Department is particularly interested in receiving comments on the sections dealing with insurance.

All transportation of migrant and seasonal agricultural workers, both on the farm and on the road, with the exception of certain limited exclusions (pertaining to agricultural machinery, family transportation and bona fide carpool arrangements) is covered by the vehicle safety standards set out in these regulations.

Pursuant to section 401(b)(2)(D) of the Act, the standards prescribed under section 204(a)(3a) of the Interstate Commerce Act (49 U.S.C. 304(a)(3a)), relating to the transportation of migrant workers, are deemed to be standards prescribed by the Secretary, except to the extent that the Secretary has specifically prescribed standards.

After consulting with the Department of Transportation (DOT), the Department of Labor is promulgating in these regulations new vehicle safety standards to protect the health and safety of workers who are transported in passenger automobiles and station wagons, regardless of distance, and in vehicles other than passenger automobiles and station wagons which are used only for transportation of a migrant or seasonal agricultural worker for a distance of 75 miles or less. These standards are set out in § 500.105 of Subpart D.

The DOT standards prescribed under the Interstate Commerce Act will apply to any vehicle, other than a passenger automobile or station wagon, which is used to transport any migrant or seasonal agricultural worker for any trip of a distance greater than 75 miles. The DOT standards will also apply to the transportation for any distance of any migrant or seasonal agricultural worker by means of a day-haul operation using any motor vehicle other than a passenger automobile or station wagon. When the use or intended use of a vehicle makes it subject to these DOT standards, the vehicle will be subject to the DOT standards so long as the vehicle is used for transportation subject to the Act and these regulations.

In formulating the standards set forth in § 500.105, the Department consulted with DOT and examined State vehicle safety inspection standards and practices. Pursuant to the Act, the Department considered the following, among other factors, in formulating the standards: (1) The type of vehicle used, (2) the passenger capacity of the vehicle, (3) the distance which such workers will be carried in the vehicle, (4) the type of roads and highways on which such workers will be carried in the vehicle, and (5) the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

The Department of Labor standards set out minimum safety requirements for various parts and systems of the vehicles. Generally, the parts and systems are the same as those which are normally covered under the motor vehicle safety inspection programs at the State level, e.g. lights, brakes, tires, steering, exhaust system, fuel system, etc.

As provided in the Act, the regulations indicate that a farm labor contractor, agricultural employer and agricultural association must ensure that each driver of a vehicle used to transport a migrant or seasonal agricultural worker has a currently valid motor vehicle operator's permit or license, as provided by applicable State law, to operate the vehicle. The regulations also provide that the Department will consider the presence of a current State vehicle inspection sticker as prima facie evidence that the safety standards have been met. The posession of such a sticker will not, however, relieve the responsibility for maintaining the vehicle in compliance with the safety standards which are

applicable under the Act and the regulations.

Subpart D, §§ 500.120 through 500.128, contains the transportation insurance requirements established by the Act. Pursuant to these insurance requirements, a farm labor contractor, agricultural employer and agricultural association must insure against liability for damages to persons or property arising from the operation of a motor vehicle in transporting a migrant or seasonal agricultural worker by either obtaining a vehicle liability insurance policy, including a liability endorsement, or by executing a liability bond in lieu of such insurance policy. These provisions are identical to the predecessor provisions in FLCRA.

Unlike FLCRA, however, MSPA provides an offset when workers' compensation coverage has been provided. Under these provisions, a farm labor contractor, agricultural employer or agricultural association who is the employer of a migrant or seasonal agricultural worker for purposes of a State workers' compensation law and who provides workers' compensation coverage for such worker in the case of bodily injury or death as provided in such State law may offset such insurance protection against the insurance otherwise required under the Act. Thus, no vehicle or other liability insurance policy (or liability bond in lieu of such insurance) will be required of such employer, if a worker is transported only under circumstances for which there is coverage under such State law. A vehicle or other liability insurance policy (or liability bond) will be required of the employer for circumstances under which coverage for the transportation of such worker is not provided under such State law. The regulations state further that where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker by the employer, the workers' compensation benefits are the exclusive remedy for loss under this Act in the case of bodily injury or death. Such an employer may evidence the issuance of workers' compensation insurance by obtaining and making available to the Department, upon request, a workers' compensation coverage policy of insurance.

Where workers' compensation protection is applicable, such employer must obtain vehicle or other liability insurance which covers the transportation of passengers who are not employees and of workers whose transportation by the employer is not covered by the workers' compensation insurance policy. The purchase of this insurance may be evidenced by obtaining and making available, upon request, to the Department of Labor a vehicle or other liability certificate of insurance covering transportation of all non-employee passengers and of workers whose transportation by the employer is not covered by workers' compensation insurance. In the absence of this certificate, the Department will, here again, look to the actual policy in determining compliance.

State workers' compensation laws, however, do not insure employers against liability for damage to property. Therefore, the regulations provide that an employer who provides workers' compensation insurance which protects a worker in the event of bodily injury or death while the worker is being transported must also obtain motor carrier or other appropriate insurance providing a minimum of at least $50,000 for loss or damage in any one accident to the property of others (excluding cargo) or evidence of a general liability insurance policy providing this same protection. The employer may evidence the purchase of this insurance by obtaining and making available to the Department of Labor a vehicle or other liability certificate of insurance showing that such property damage insurance has been purchased. In the absence of such certificate, the Department will look to the actual policy of insurance in its enforcement efforts.

Subpart D, §§ 500.130 through 500.135, sets out the housing safety and health requirements. Under the Act, each person who owns or controls a facility or real property which is used as housing for any migrant agricultural worker must ensure that the facility or real property complies with all substantive Federal and State safety and health standards applicable to such housing.

The regulations state that a farm labor contractor, agricultural employer, agricultural association or any other person is considered an "owner" of a housing facility of real property if such person has a legal or equitable interest in such facility or real property. Under the regulations a farm labor contractor, agricultural employer, agricultural association or any other person is in "control" of a housing facility or real property, regardless of the location of such facility, if such person is in charge of or has the power or authority to oversee, manage, superintend or administer the housing facility or real property either personally or through an authorized agent or employee, irrespective of whether compensation is paid for engaging in any of the aforesaid capacities. Under these provisions, all persons who own or control the housing are jointly responsible for it.

With certain limited exceptions set forth in § 500.131, all migrant housing must meet either the substantive standards established by the Occupational Safety and Health Administration at 29 CFR Part 1910 or the substantive standards established by Employment Training Administration at 20 CFR Part 654. In addition, all covered housing must meet substantive State safety and health standards.

The regulations indicate that substantive standards include, but are not limited to, those that provide fire prevention, an adequate and sanitary supply of water, well maintained plumbing, structurally sound construction and effective maintenance of buildings, provision of adequate heat as weather conditions require, and reasonable protections of inhabitants from rodents and insects. Technical or procedural violations of safety and health standards are not considered to be "substantive."

As provided in the Act, the regulations state that housing may not be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency, including a Federal agency, has certified that the housing meets applicable health and safety standards. They provide further that prior to the of the housing by the migrant agricultural worker, the person who owns or controls the housing shall ensure that a copy of the certification of occupancy provided by the appropriate agency is posted at the site of the housing. The certificate must be retained by such person for a period of three years and made available for inspection by the Department of Labor.

The regulations provide that should the person who owns or controls the housing request an inspection of the housing by the appropriate agency at least 45 days prior to the date on which it is to be occupied by any migrant agricultural worker and the agency has failed to complete an inspection, the housing may be occupied. The regulations state, however, that neither the failure of the agency to complete its inspection nor the posting of the certificate following such an inspection will relieve the person who owns or controls such housing from the duty to provide safe and healthy housing. Such person will be responsible, once housing is occupied, for supervising and continually maintaining the housing to ensure that it remains in compliance

with the housing safety and health standards.

Subpart E sets forth the enforcement authority of the Secretary of Labor under the Act. It also sets forth the authority and procedures for the Secretary to enter into agreements with Federal and State agencies for their cooperation in administration and enforcement of the Act. It provides, as well, for the establishment of a central registry of registered farm labor contractor and their employees by the Department of Labor.

Subpart F establishes the procedures and rules of practice necessary for administrative enforcement of the Act. Under the Act, any person who is denied a Certificate of Registration by the Department of Labor or against whom a civil money penalty is assessed for violation of the Act is entitled to an administrative hearing. This subpart sets out detailed procedures and rules for such administrative hearings. As noted previously, for transition purposes, Subpart F provides that determinations to assess civil money penalties and requests which are pending for hearings related to civil money penalties under FLCRA will continue through to final determination in accordance with the FLCRA regulations.

Publication as an Interim Regulation; Request for Comments

The Department has determined that the public interest requires the immediate issuance of these regulations in order to assure a smooth implementation of MSPA. Specifically, the Act requires the Secretary to issue transportation regulations. If the DOL has not promulgated regulations by the effective date, the Act provides for application of DOT regulations. DOT regulations, however, were designed for vehicles engaged in long distance transportation of migrants and were not intended for shorter trips, nor for passenger automobiles and station wagons. A substantial portion of the transportation of migrant and seasonal agricultural workers would thus not be subject to appropriate standards if these regulations are not immediately effective.

Additionally, the Act directs the Secretary in accordance with regulations to issue certificates of registration authorizing persons to engage in farm labor contracting activities, prior to their so engaging. Failure to obtain and possess such a certificate, or utilization of a person who does not possess such a certificate, is a violation and subjects both the contractor and the agricultural community to penalties and damages. Since the registration process needs regulations, failure to issue them results in a potential for widespread violations by growers and other agricultural employers because individuals authorized to perform needed services would not be available.

The failure to have these regulations in place on the effective date of the Act (April 14, 1983) will lead to unnecessary, unwarranted and costly vulnerability of the agricultural community to private lawsuits which are authorized under the Act. Technical violations such as this under FLCRA have in the past resulted in substantial monetary awards in private litigation.

Accordingly, the Department finds good cause, pursuant to 5 U.S.C. 553(b)(3)(B) and 553(d)(3), that prior notice and public comment are contrary to the public interest. However, interested members of the public are invited to submit comments on this regulation within thirty (30) days, to Mr. William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210. All material received in response to this invitation will be available for public inspection during normal business hours in Room S–3030 at that address.

Following evaluation of the comments received, a final regulation, modified as necessary, will be published.

This interim regulation will be effective for not more than 120 days (August 12, 1983), unless extended by appropriate **Federal Register** notice.

Effective Date

Because immediate issuance of this interim regulation is required by the public interest in having a smooth implementation of MSPA, it shall become effective April 14, 1983 instead of thirty days after publication. This determination is made pursuant to 5 U.S.C. 553(d)(3).

Executive Order 12291; Regulatory Flexibility Act

The Department has determined that this notice is not a major rule under Executive Order 12291. The interim rule implements the Migrant and Seasonal Agricultural Worker Protection Act, which is designed to improve the delivery of Federal protections for agricultural workers and which adds no new types of protections for these workers. Rather, the Act and these regulations streamline procedures adopted under the Farm Labor Contractor Registration Act (FLCRA) and reduce certain burdens imposed on agricultural employers and associations under FLCRA. For this reason, the Department believes that the regulation will result in some lower cost to the agricultural sector of the economy. However, the Department believes that it is unlikely that its overall economic impact will be significant. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting or recordkeeping provisions that are included in these regulations have been submitted for review to the Office of Management and Budget (OMB).

As noted in § 500.1(i), OMB has assigned control numbers to the information collection requirements in this part.

Appendix

Editorial Note.—The Department presents forms in the Appendix which satisfy certain disclosure and recordkeeping aspects of the Act and the regulations. These forms, however, will not appear in the Code of Federal Regulations.

Appendix A—Migrant and Seasonal Agricultural Worker Protection Act Poster, WH–1376.
Appendix B—Worker Information, WH–516.
Appendix C—Housing Terms and Conditions, WH–521.
Appendix D—Wage Statement, WH–501 (English, Spanish).

List of Subjects in 29 CFR Part 500

Administrative practice and procedure,

Administrative practice and procedure, Agriculture, Aliens, Farmers, Health, Housing, Housing standards, Immigration, Insurance, Investigations, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting requirements, Seasonable agricultural workers, Transportation, Wages, Manpower training programs, Labor, Safety.

For the reasons set out in the preamble, Chapter V of Title 29 of the Code of Federal Regulations is amended

by adding Part 500 to read as set forth below.

Signed at Washington, D.C. this 4th day of April, 1983.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary.

William M. Otter,

Administrator, Wage and Hour Division.

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

Subpart A—General Provisions

Sec.
500.0 Introduction.
500.1 Purpose and scope.
500.2 Compliance with State laws and regulations.
500.3 Effective date of the Act; transition period; repeal of the Farm Labor Contractor Registration Act.
500.4 Effect of prior judgments and final orders obtained under the Farm Labor Contractor Registration Act.
500.5 Filing of applications, notices and documents.
500.6 Accuracy of information, statements and data.
500.7 Investigation authority of the Secretary.
500.8 Prohibition on interference with Department of Labor officials.
500.9 Discrimination prohibited.
500.10 Waiver of rights prohibited.
500.20 Definitions.

Applicability of the Act Exemptions

500.30 Persons not subject to the Act.

Subpart B—Registration of Farm Labor Contractors and Employees of Farm Labor Contractors Engaged in Farm Labor Contracting Activities

Registration Requirements General

500.40 Registration in general.
500.41 Farm labor contractor is responsible for actions of his farm labor contractor employee.
500.42 Certificate of Registration to be carried and exhibited.
500.43 Effect of failure to produce certificate.

Applications and Renewal of Farm Labor Contractor and Farm Labor Contractor Employee Certificates

500.44 Form of application.
500.45 Contents of application.
500.46 Filing an application.
500.47 Place for filing application.

Action on Application

500.48 Issuance of certificate.
500.50 Duration of certificate.
500.51 Refusal to issue or to renew, or suspension or revocation of certificate.
500.52 Right to hearing.
500.53 Nontransfer of certificate.
500.54 Change of address.
500.55 Changes to or amendments of certificate authority.
Sec.
500.56 Replacement of Certificate of Registration or Farm Labor Contractor Employee Certificate.

Prohibition Against Employing Illegal Aliens

500.58 Prohibition against recruiting, hiring, employing, or using an alien not lawfully admitted for permanent residence or authorized by Attorney General to accept employment.
500.59 Good faith reliance on documents.

Additional Obligations of Farm Labor Contractors and Farm Labor Contractor Employees

500.60 Farm labor contractors' recruitment, contractual and general obligations.
500.61 Farm labor contractors must comply with all worker protections and all other statutory provisions.
500.62 Obligations of a person holding a valid Farm Labor Contractor Employee Certificate of Registration.

Subpart C—Worker protections

General

500.70 Scope of worker protections.
500.71 Utilization of only registered farm labor contractors.
500.72 Agreements with workers.
500.73 Required purchase of goods or services solely from any person prohibited.

Recruiting, Hiring and Providing Information to Migrant Agricultural Workers.

500.75 Disclosure of information.

Hiring and Providing Information to Seasonal Agricultural Workers

500.76 Disclosure of information.

Employment Information Furnished

500.77 Accuracy of information furnished.
500.78 Information in foreign language.

Wages and Payroll Standards

500.80 Payroll records required.
500.81 Payment of wages when due.

Subpart D—Motor Vehicle Safety and Insurance for Transportation of Migrant and Seasonal Agricultural Workers, Housing Safety and Health for Migrant Workers

Motor Vehicle Safety

500.100 Transportation vehicle safety standards.
500.101 Interstate Commerce Act standards.
500.102 Applicability of Secretary's standards.
500.103 Activities not subject to vehicle safety standards.
500.104 Transportation subject to Department of Labor standards.
500.105 Department of Labor standards for passenger automobiles and station wagons and transportation of seventy-five miles or less.
500.106 Proof of compliance with vehicle safety standards.

Insurance

500.120 Insurance policy or liability bond is required for each vehicle used to transport any migrant or seasonal agricultural worker.
Sec.
500.121 Level of insurance required.
500.122 Adjustments in insurance requirements when workers' compensation coverage is provided under State law.
500.123 Property damage insurance required.
500.124 Liability bond in lieu of insurance policy.
500.125 Qualifications and eligibility of insurance carriers.
500.126 Duration of insurance of liability bond.
500.127 Limitations on cancellation of insurance or liability bond of registered farm labor contractors.
500.128 Cancellation of insurance policy or liability bond not relief from insurance requirements.

Housing Safety and Health

500.130 Application and scope of safety and health requirement.
500.131 Exclusion from housing safety and health requirement.
500.132 Applicable Federal standards: ETA and OSHA housing standards.
500.133 Substantive Federal and State safety and health standards defined.
500.134 Compliance with State standards.
500.135 Certificate of housing inspection.

Subpart E—Enforcement

500.140 General.
500.141 Concurrent actions.
500.142 Representation of the Secretary.
500.143 Civil money penalty assessment.
500.144 Civil money penalties—payment and collection.
500.145 Registration determinations.
500.146 Continuation of matters involving violations of FLCRA.

Agreements With Federal and State Agencies

500.155 Authority.
500.156 Scope of agreements with Federal agencies.
500.157 Scope of agreements with State agencies.
500.158 Functions delegatable.
500.159 Submission of plan.
500.160 Approved State plans.
500.161 Audits.
500.162 Reports.

Central Public Registry

500.170 Establishment of registry.

Subpart F—Administrative Proceedings

General

500.200 Establishment of procedures and rules of practice.
500.201 Applicability of procedures and rules.

Procedures Relating to Hearing

500.210 Written notice of determination required.
500.211 Contents of notice.
500.212 Request for hearing.

Procedures Relating to Substituted Service

500.215 Change of address.
500.216 Substituted service.
500.217 Responsibility of Secretary for service.

Rules of Practice General

Sec.
500.220 Commencement of proceeding.
500.221 Designation of record.
500.222 Caption of proceeding.

Referral for Hearing

500.223 Referral to Administrative Law Judge.
500.224 Notice of docketing.
500.225 Supplemental pleadings.

Service of Pleadings and Documents

500.226 Service of documents—manner of service.
500.227 Service upon the Department of Labor—number of copies.
500.228 Proof of service.
500.229 Computation of time.

Procedures Before Administrative Law Judge, Generally

500.230 Authority of Administrative Law Judge.
500.231 Appearances; representation of parties.
500.232 Pleadings allowed.
500.233 Motions and requests.
500.234 Subpenas.
500.235 Witnesses and fees.
500.236 Depositions.
500.237 Prehearing conferences.
500.238 Consent findings and order.

Hearings

500.250 Hearing procedures generally.
500.251 Evidence at the hearing.
500.252. Official notice.
500.253 Transcripts.

Post-Hearing Procedures

500.261 Proposal by the parties.
500.262 Decision and order of Administrative Law Judge.

Modification or Vacation of Order of Administrative Law Judge

500.263 Authority of the Secretary.
500.264 Implementation by the Secretary.
500.265 Responsibility of the Office of Administrative Law Judges.
500.266 Additional information, if required.
500.267 Final decision of the Secretary.
500.268 Stay pending decision of the Secretary.

Record

500.270 Retention of official record.
500.271 Certification of official record.

Authority: Pub. L. 97-470, 96 Stat. 2583 (29 U.S.C. 1801-1872); Secretary's Order No. 5-83, 48 FR ; and Employment Standards' Order No. 83-1, 48 FR .

Subpart A—General Provisions

§ 500.0 Introduction.

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA), hereinafter referred to as MSPA or the Act, repeals and replaces the Farm Labor Contractor Registration Act of 1963, as amended, hereinafter referred to as FLCRA or the Farm Labor Contractor Registration Act. Prior judgments and final orders obtained under FLCRA continue in effect as stated in section 500.4.

§ 500.1 Purpose and scope.

(a) Congress stated, in enacting the Migrant and Seasonal Agricultural Worker Protection Act that "[I]t is the purpose of this Act to remove the restraints on commerce caused by activities detrimental to migrant and seasonal agricultural workers; to require farm labor contractors to register under this Act; and to assure necessary protections for migrant and seasonal agricultural workers, agricultural associations, and agricultural employers." It authorized the Secretary to issue such rules and regulations as are necessary to carry out the Act consistent with the requirements of Chapter 5 of Title 5, United States Code.

(b) These regulations implement this purpose and policy. The regulations contained in this part are issued in accordance with section 511 of the Act and establish the rules and regulations necessary to carry out the Act.

(c) Any farm labor contractor, as defined in the Act, is required to obtain a Certificate of Registration issued pursuant to the Act from the Department of Labor or from a State agency authorized to issue such certificates on behalf of the Department of Labor. Such a farm labor contractor must ensure that any individual whom he employs to perform any farm labor contracting activities also obtains a Certificate of Registration. The farm labor contractor is responsible, as well, for any violation of the Act or these regulations by any such employee whether or not the employee obtains a certificate. In addition to registering, farm labor contractors must comply with all other applicable provisions of the Act when they recruit, solicit, hire, employ, furnish, transport or, in the case of migrant agricultural workers, house.

(d) Agricultural employers and agricultural associations which are subject to the Act must comply with all of the worker protections which are applicable under the Act to migrant or seasonal agricultural workers whom they recruit, solicit, hire, employ, furnish, transport or, in the case of migrant agricultural workers, house. The obligations will vary, depending on the types of activities affecting migrant or seasonal agricultural workers. Agricultural employers and agricultural associations and their employees need not obtain Certificates of Registration in order to engage in these activities, even if the workers they obtain are utilized by other persons or on the premises of another.

(e) The Act empowers the Secretary of Labor to enforce the Act, conduct investigations, issue subpenas and, in the case of designated violations of the Act, impose sanctions. As provided in the Act, the Secretary is empowered, among other things, to impose an assessment and to collect a civil money penalty of not more than $1,000 for each violation, to seek a temporary or permanent restraining order in a United States District Court, and to seek the imposition of criminal penalties on persons who willfully and knowingly violate the Act or any regulation under the Act. In accordance with the Act and with these regulations, the Secretary may refuse to issue or to renew, or may suspend or revoke a certificate or registration issued to a farm labor contractor or to a person who engages in farm labor contracting as an employee of a farm labor contractor.

(f) The facilities and services of the U.S. Employment Service, including State agencies, authorized by the Wagner-Peyser Act may be denied to any person found by a final determination by an appropriate enforcement agency to have violated any employment-related laws including MSPA and notification of this final determination has been provided to the Job Service by that enforcement agency. See 20 CFR 658.501(a)(4). The facilities and services of the U.S. Employment Service shall be restored immediately upon correction of any such violation.

(g) Subparts A through E set forth the substantive regulations relating to farm labor contractors, agricultural employers and agricultural associations. These subparts cover the applicability of the Act, registration requirements applicable to farm labor contractors, the obligations of persons who hold Certificates of Registration, the worker protections which must be complied with by all who are subject to the Act, and the enforcement authority of the Secretary.

(h) Subpart F sets forth the rules of practice for administrative hearings relating to actions involving Certificates of Registration. It also outlines the procedure to be followed for filing a challenge to a proposed administrative action relating to violations and summarizes the methods provided for collection and recovery of a civil money penalty.

(i)(1) The Act requires that farm labor contractors obtain a certificate of registration from the Department of Labor prior to engaging in farm labor contracting activities. The Act also requires registration by individuals who will perform farm labor contracting

activities for a farm labor contractor. Form WH–510 and WH–512 are the applications used to obtain Farm Labor Contractor and Farm Labor Contractor Employee Certificates of Registration. These forms have been approved by the Office of Management and Budget (OMB) under control numbers 1215–0038 (WH–510) and 1215–0037 (WH–512). Forms WH–514 and WH–514a are used when applying for transportation authorization to furnish proof of compliance with vehicle safety requirements. These forms have been jointly cleared by OMB under control number 1215–0036.

(2) The Act further requires disclosure to migrant and seasonal agricultural workers regarding wages, hours and other working conditions and housing when provided to migrant workers. The Department of Labor has developed optional forms for use in making the required disclosure. OMB has approved the following: Worker Information (WH–516) 1215–0145 and Housing Terms and Conditions (WH–521) 1215–0146.

(3) The Act also requires that farm labor contractors, agricultural employers and agricultural associations make, keep, preserve and disclose certain payroll records. Forms WH–501 and WH–501a (Spanish version) are provided to assist in carrying out this requirement. In addition, farm labor contractors who are applying for housing authorization must submit information which identifies the housing to be used along with proof of compliance with housing safety and health requirements. There has been no form developed for this purpose. The Act further requires disclosure by the insurance industry of certain information pertaining to cancellation of vehicle liability insurance policies. The requirements concerning recordkeeping, housing and insurance have been cleared by OMB under control number 1215–0148.

(4) The act provides that no farm labor contractor shall knowingly employ or utilize the services of aliens not lawfully admitted for permanent residence or who have not been authorized by the Attorney General to accept employment. Form WH–509 is an optional form which may be used to self-certify that the applicant is a citizen of the U.S. This form has been cleared by OMB under control number 1215–0091.

§ 500.2 Compliance with State laws and regulations.

The Act and these regulations are intended to supplement State law; compliance with the Act or these regulations shall not excuse any individual from compliance with appropriate State law or regulation.

§ 500.3 Effective date of the Act; transition period; repeal of the Farm Labor Contractor Registration Act.

(a) The provisions of the Migrant and Seasonal Agricultural Worker Protection Act are effective on April 14, 1983 and are codified in 29 U.S.C. 1801 *et seq.*

(b) The Migrant and Seasonal Agricultural Worker Protection Act repeals the Farm Labor Contractor Registration Act of 1963, as amended, (7 U.S.C. 2041, *et seq.)* effective April 14, 1983.

(c) Violations of the Farm Labor Contractor Registration Act occurring prior to April 14, 1983, may be pursued by the Department of Labor after that date.

§ 500.4 Effect of prior judgments and final orders obtained under the Farm Labor Contractor Registration Act.

The Secretary may refuse to issue or to renew, or may suspend or revoke, a Certificate of Registration under the Act, if the applicant or holder has failed to pay any court judgment obtained by the Secretary or any other person under the Farm Labor Contractor Registration Act, or has failed to comply with any final order issued by the Secretary under the Farm Labor Contractor Registration Act. The Secretary may deny a Certificate of Registration under the Act to any farm labor contractor who has a judgment outstanding against him, or is subject to a final order assessing a civil money penalty which has not been paid.

§ 500.5 Filing of applications, notices and documents.

Unless otherwise prescribed herein, all applications, notices and other documents required or permitted to be filed by these regulations shall be filed in accordance with the provisions of Subpart F of the regulations.

§ 500.6 Accuracy of information, statements and data.

Information, statements and data submitted in compliance with provisions of the Act or these regulations are subject to Title 18, section 1001, of the United States Code, which provides:

Section 1001. Statements or entries generally.

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

§ 500.7 Investigation authority of the Secretary.

(a) The Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate and, in connection therewith, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information as he deems necessary to determine compliance with the Act, or these regulations.

(b) The Secretary may issue subpenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in the Act, the Authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(c) Any person may report a violation of the Act or these regulations to the Secretary by advising any local office of the Employment Service of the various States, or any office of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or any other authorized representative of the Administrator. The office or person receiving such a report shall refer it to the appropriate office of the Wage and Hour Division, Employment Standards Administration for the region or area in which the reported violation is alleged to have occurred.

(d) In case of disobedience to a subpena, the Secretary may invoke the aid of a United States District Court which is authorized to issue an order requiring the person or business organization to obey such subpena.

§ 500.8 Prohibition on interference with Department of Labor officials.

It is a violation of section 512(c) of the Act for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform an investigation, inspection, or law enforcement function pursuant to the Act during the performance of such

duties. (Other Federal statutes which prohibit persons from interfering with a Federal officer in the course of official duties are found at 18 U.S.C. 111 and 18 U.S.C. 1114.)

§ 500.9 Discrimination prohibited.

(a) It is a violation of the Act for any person to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause—

(1) Filed a complaint with reference to the Act with the Secretary of Labor; or

(2) Instituted or caused to be instituted any proceeding under or related to the Act; or

(3) Testified or is about to testify in any proceeding under or related to the Act; or

(4) Exercised or asserted on behalf of himself or others any right or protection afforded by the Act.

(b) A migrant or seasonal agricultural worker who believes, with just cause, that he has been discriminated against by any person in violation of this secion may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination.

§ 500.10 Waiver of rights prohibited.

Any agreement by an employee purporting to waive or modify any rights inuring to said person under the Act or these regulations shall be void as contrary to public policy, except that a waiver of modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act of these regulations. This does not prevent agreements to settle private litigation.

§ 500.20 Definitions.

For purposes of this part:

(a) "Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor, and such authorized representatives as may be designated by the Administrator to perform any of the functions of the Administrator under this part.

(b) "Administrative Law Judge" means a person appointed as provided in Title 5 U.S.C. and qualified to preside at hearings under 5 U.S.C. 557. "Chief Administrative Law Judge" means the Chief Administrative Law Judge, United States Department of Labor, Washington, D.C. 20210.

(c) "Agricultural association" means any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(d) "Agricultural employer" means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker. "Produces seed" means the planting, cultivation, growing and harvesting of seeds of agricultural or horticultural commodities. "Conditions seed" means the in-plant work done after seed production including the drying and aerating of seed.

(e) "Agricultural employment" means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(f) "Convicted" means that a final judgment of guilty has been rendered by a court of competent jurisdiction from which no opportunity for appeal remains.

(g) "Day-haul operation" means the assembly of workers at a pick-up point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a drop-off point on the same day. This term does not include transportation provided by an employer for individuals who are already employees at the time they are picked up nor does it include carpooling arrangements by such employees which are not directed by the employer, farm labor contractor or agent thereof.

(h) (1) The term "employ" has the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act. As so defined, "employ" includes to suffer or permit to work.

(2) The term "employer" is given its meanings as found in the Fair Labor Standards Act. "Employer" under Section 3(d) of that Act includes any person acting directly or indirectly in the interest of an employer in relation to an employee.

(3) The term "employee" is also given its meaning as found in the Fair Labor Standards Act. "Employee" under Section 3(e) of that Act means any individual employed by an employer.

(4) The definition of the term "employ" includes the "joint employment" principles applicable under the Fair Labor Standards Act. "Joint employment" under the Fair Labor Standards Act is "joint employment" under the MSPA.

(i) The term "joint employment" means a condition in which a single individual stands in the relation of an employee to two or more persons at the same time. A determination of whether the employment is to be considered joint employment depends upon all the facts in the particular case. If the facts establish that two or more persons are completely disassociated with respect to the employment of a particular employee, a "joint employment" situation does not exist.

(ii) Questions will often arise under the Act as to whether individuals employed by a farm labor contractor are also jointly employed by another person engaged in agriculture (including any person defined in the Act as an agricultural employer or an agricultural association). Such joint employment relationships are common in agriculture and have often been addressed by the Federal courts. See *Hodgson* v. *Okada*, 472 F. 2d 965, *Hodgson* v. *Griffin and Brand*, 471 F. 2d 235, *Mitchell* v. *Hertzke*, 234 F. 2d 183, *United States* v. *Rosenwasser*, 323 U.S. 360, *Rutherford Food Corporation* v. *Walling*, 331 U.S. 722, 67 S. Ct. 1473, *Real* v. *Driscoll Strawberry Associates, Inc.*, 603 F. 2d 748, *Mednick* v. *Albert Enterprises, Inc.*, 508 F. 2d 297, and *Usery* v. *Pilgrim Equipment Company, Inc.*, 527 F. 2d 1308. In determining whether such a joint employment relation exists the courts have cited the broad definition of "employ" in the Fair Labor Standards Act which "includes to suffer or permit to work". The factors considered significant by the courts in these cases and to be used as guidance by the Secretary, include, but are not limited to, the following:

(A) The nature and degree of control of the workers;

(B) The degree of supervision, direct or indirect, of the work;

(C) The power to determine the pay rates or the methods of payment of the workers;

(D) The right, directly or indirectly, to hire, fire, or modify the employment conditions of the workers;

(E) Preparation of payroll and the payment of wages.

(i) "Farm labor contracting activity" means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker.

(j) "Farm labor contractor" means any person—other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association—who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity.

(k) "Farm Labor Contractor Certificate of Registration" or "Certificate of Registration" means the certificate issued by the Administrator which permits a farm labor contractor to engage in farm labor contracting activities.

(l) "Farm labor contractor employee" who is required to obtain a Certificate of Registration as an employee of a farm labor contractor means a person who performs farm labor contracting activity solely on behalf of a farm labor contractor holding a valid Certificate of Registration and is not an independent farm labor contractor who would be required to register under the Act in his own right.

(m) "Farm Labor Contractor Employee Certificate" or "Farm Labor Contractor Employee Certificate of Registration" or "Employee Certificate" means the certificate issued by the Administrator to an employee of a farm labor contractor authorizing the performance of farm labor contracting activities solely on behalf of such farm labor contractor and not as an independent farm labor contractor who would be required to register in his own right.

(n) "Illegal alien" means any person who is not lawfully admitted for permanent residence in the United States or who has not been authorized by the Attorney General to accept employment in the United States.

(o) "Immediate family" includes only—

(1) A spouse;

(2) Children, stepchildren, and foster children;

(3) Parents, stepparents, and foster parents; and

(4) Brothers and sisters

(p) "Migrant agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

(1) "Migrant agricultural worker" does not include—

(i) Any immediate family member of an agricultural employer or a farm labor contractor; or

(ii) Any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act.

(2) "Permanent place of residence", with respect to an individual, means a domicile or permanent home. Permanent place of residence does not include seasonal or temporary housing such as a labor camp. The term "permanent place of residence" for any nonimmigrant alien is that individual's country of origin.

(q) "Person" means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(r) "Seasonal agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—

(1) When employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or

(2) When employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation.

(i) "Seasonal agricultural worker" does not include—

(A) any migrant agricultural worker;

(B) any immediate family member of an agricultural employer or a farm labor contractor; or

(C) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act.

(ii) "Field work related to planting, cultivating or harvesting operations" includes all farming operations on a farm or ranch which are normally required to plant, harvest or produce agricultural or horticultural commodities, including the production of a commodity which normally occurs in the fields of a farm or ranch as opposed to those activities which generally occur in a processing plant or packing shed. A worker engaged in the placing of commodities in a container in the field and on-field loading of trucks and similar transports is included. Nursery, mushroom and similar workers engaged in such field work activities are intended to be covered. An individual operating a machine, such as a picker, or tractor is not included when performing such activity.

(iii) "On a seasonal or other temporary basis" means:

(A) Labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year. A worker who moves from one seasonal activity to another, while employed in agriculture or performing agricultural labor, is employed on a seasonal basis even though he may continue to be employed during a major portion of the year.

(B) A worker is employed on "other temporary basis" where he is employed for a limited time only or his performance is contemplated for a particular piece of work, usually of short duration. Generally, employment, which is contemplated to continue indefinitely, is not temporary.

(iv) "On a seasonal or other temporary basis" does not include the employment of any foreman or other supervisory employee who is employed by a specific agricultural employer or agricultural association essentially on a year round basis.

(v) "On a seasonal or other temporary basis" does not include the employment of any worker who is living at his permanent place of residence, when that worker is employed by a specific agricultural employer or agricultural association on essentially a year round basis to perform a variety of tasks for his employer and is not primarily employed to do field work.

(s) "Secretary" means the Secretary of Labor or the Secretary's authorized representative.

(t)(1) "Solicitor of Labor" means the Solicitor, United States Department of Labor, and includes attorneys designated by the Solicitor to perform functions of the Solicitor under these regulations.

(2) "Associate Solicitor for Fair Labor Standards" means the Associate Solicitor, who, among other duties, is in charge of litigation for the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210.

(3) "Regional Solicitors" means the attorneys in charge of the various regional offices of the Office of the Solicitor.

(u) "State" means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam. "State agency" means a State agency vested with all powers necessary to cooperate with the U.S.

Department of Labor for purposes of entering into agreements to carry out the Act as provided in section 513 thereof.

(v) "Temporary nonimmigrant alien" means a person who has a residence in a foreign country which he does not intend to abandon and who comes temporarily to the United States, with approval of the Attorney General, to perform temporary service or labor.

(w) The "Wagner-Peyser Act" is the Act of June 6, 1933 (48 Stat. 113; codified in 29 U.S.C. 49 *et seq.*), providing, inter alia, for the establishment of the U.S. Employment Service. "Employment Service of the various States" means a State agency vested with all powers necessary to cooperate with the U.S. Employment Service under the Wagner-Peyser Act.

Applicability of the Act Exemptions

§ 500.30 Persons not subject to the Act.

(a) *Family business exemption.* Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(b) *Small business exemption.* Any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable. That exemption applies to an agricultural employer who did not, during any calendar quarter of the preceding calendar year, use more man-days of agricultural labor than the limit specified under that statute.

(1) Currently the limit for exemption is 500 man-days.

(2) A "man-day" means any day during which an employee performs agricultural labor for not less than one (1) hour. Agricultural labor performed by an employer's parent, spouse, child, or other member of his immediate family, i.e., step-children, foster children, step-parents and foster parents, brothers, and sisters is not counted as man-days.

(3) The man-days of agricultural labor rendered in a joint employment relationship are counted toward the man-days of such labor of each employer for purposes of the man-day test of this exemption.

(c) *Common carriers.* Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker. A "common carrier" by motor vehicle is one which holds itself out to the general public to engage in transportation of passengers for hire, whether over regular or irregular routes, and which holds a valid certificate of authorization for such purposes from an appropriate local, State or Federal agency.

(d) *Labor organizations.* Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act) or as defined under applicable State labor relations law.

(e) *Nonprofit charitable organizations.* Any nonprofit charitable organization or public or private nonprofit educational institution.

(f) *Local short-term contracting activity.* Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person's permanent place of residence and for not more than thirteen weeks per year.

(1) "Twenty-five mile intrastate radius" as used in section 4(a)(3)(D) of the Act means that engagement in a farm labor contracting activity may not go beyond a twenty-five mile intrastate geographical radius. One this limit is transcended, the exemption no longer applies and the person becomes subject to the requirements of the Act. If, for example, a person solicits workers from a distance greater than twenty-five miles from his permanent residence or from across a State line, then the person has engaged in a named activity outside of the permitted scope and is subject to the requirements of the Act. A person who uses lines of communication (such as U.S. Mail, telephone, or advertising) to recruit, solicit, hire, or furnish workers over a distance greater than twenty-five miles from his permanent residence or from across a State line for agricultural employment is also engaged in a named activity beyond the specified limit of the exemption and is subject to the Act. In the case of a corporation its permanent place of residence for these purposes shall be a single designated location.

(2) "For not more than thirteen weeks per year" as used in section 4(a)(3)(D) of the Act means that farm labor contracting activities may not be engaged in for more than thirteen weeks in a year. This does not mean, however, that persons who engage in intrastate and short-range farm labor contracting activities are exempt for the first thirteen weeks of their farm labor contracting activities each year. The number of weeks of contracting activity during the prior year is also a factor. When the limit of weeks for the exemption is exceeded in a calendar year, the person is subject immediately to the Act and is also subject to the Act in the next calendar year and in each subsequent year unless in the preceding year the tests of section 4(a)(3)(D) are met.

(g) *Custom combine.* Any custom combine, hay harvesting, or sheep shearing operation. "Custom combine, hay harvesting, and sheep shearing operation" means the agricultural services and activities involved in combining grain, harvesting hay and shearing sheep which are provided to a farmer on a contract basis by a person who provides the necessary equipment and labor and who specializes on providing such services and activities.

(h) *Custom poultry operations.* Any custom poultry harvesting, breeding, debeaking, desexing, or health service operation, provided the employees of the operation are not regularly required to be away from their permanent place of residence other than during their normal working hours.

(i) *Seed production exemption.* (1) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(2) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with paragraph (i)(1) of this section by a person who is exempt thereunder.

(j) *Shade grown tobacco.* (1) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under

eighteen years of age who are providing transportation on behalf of such person.

(2) Any person to the extent he is supplied with students or other individuals for agricultural employment is accordance with paragraph (j)(1) of this section by a person who is exempt thereunder.

(k) *Employees of exempt employers.* Any employee of any person described in paragraphs (c) through (j) of this section when performing farm labor contracting activities exclusively for such person.

Subpart B—Registration of Farm Labor Contractors and Employees of Farm Labor Contractors Engaged in Farm Labor Contracting Activities

Registration Requirements; General

§ 500.40 Registration in general.

Any person who desires to engage in any activity as a farm labor contractor, as defined in the Act and these regulations, and is not exempt, is required first to obtain a Certificate of Registration authorizing each such activity. Any employee of a registered farm labor contractor who performs farm labor contracting activities solely on behalf of such contractor, and who is not an independent contractor, must obtain a Farm Labor Contractor Employee Certificate of Registration authorizing each such activity. The employee's certificate must show the name of the farm labor contractor for whom the activities are to be performed. The contractor whose name appears on the employee's certificate must hold a valid Certificate of Registration covering the entire period shown on the employee's certificate.

§ 500.41 Farm labor contractor is responsible for actions of his farm labor contractor employee.

(a) A farm labor contractor is responsible for assuring that every employee who is performing farm labor contracting activities on behalf of such contractor has obtained either a Farm Labor Contractor Employee Certificate of Registration or a Certificate of Registration as an independent farm labor contractor, as required by the Act and these regulations, prior to such employee's engagement in any activity enumerated in section 3(6) of the Act. The farm labor contractor is responsible for any violations of the Act or these regulations committed by his employee, whether or not the employee has registered as required by the Act.

(b) A Farm Labor Contractor Employee Certificate of Registration is valid only during the period in which the holder is an employee of the registered farm labor contractor named on the Farm Labor Contractor Employee Certificate. If prior to the expiration of the Employee Certificate, the holder, through a change in employment, should become an employee of a different registered farm labor contractor, a replacement Employee Certificate which names the new employer may be obtained by submitting to the regional office that issued the original employee certificate or to any regional office of the Wage and Hour Division, Employment Standards Administration, a written statement that includes the date of the change in employment status and the name, the permanent place of residence and certificate registration number of the new employer. Any such change should be reported immediately.

§ 500.42 Certificate of Registration to be carried and exhibited.

Each registered farm labor contractor and registered farm labor contractor employee shall carry at all times while engaging in farm labor contracting activities, a Certificate of Registration or a Farm Labor Contractor Employee Certificate as appropriate and, upon request, shall exhibit that certificate to representatives of the U.S. Department of Labor and State Employment Service Agencies and to all persons with whom he intends to deal as a farm labor contractor or farm labor contractor employee.

§ 500.43 Effect of failure to produce certificate.

The facilities and the services authorized by the Wagner-Peyser Act shall be denied to any farm labor contractor upon refusal or failure to produce, when asked, a Certificate of Registration. Services shall be provided upon presentation of a valid Certificate of Registration.

Applications and Renewal of Farm Labor Contractor and Farm Labor Contractor Employee Certificates

§ 500.44 Form of application.

An application for issuance or renewal of a Farm Labor Contractor Certificate of Registration or Farm Labor Contractor Employee Certificate shall be made on forms designated by the Secretary.

§ 500.45 Contents of application.

The application shall set forth the information required thereon which shall include the following:

(a) A declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the farm labor contracting activities for which the certificate is requested, and the address to which official documents should be mailed;

(b) A statement identifying each vehicle to be used to transport any migrant or seasonal agricultural worker and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant for a Farm Labor Contractor Certificate of Registration is in compliance with the requirements of section 401 of the Act with respect to each such vehicle;

(c) A statement identifying each facility or real property to be used to house any migrant agricultural worker and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant for a Farm Labor Contractor Certificate of Registration is in compliance with section 203 of the Act with respect to each such facility or real property;

(d) A set of fingerprints of the applicant on Form FD 258 as prescribed by the U.S. Department of Justice;

(e) A declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service; and

(f) Such other relevant information as the Secretary may require.

§ 500.46 Filing an application.

Registration under the Act is required whether or not licensing or registration is required under State law.

§ 500.47 Place for filing application.

Application forms may be filed in any State Employment Service Office or in any office of the Wage and Hour Division, U.S. Department of Labor.

Action on Application

§ 500.48 Issuance of certificate.

The Administrator or authorized representative shall:

(a) Review each application received and determine whether such application is complete and properly executed;

(b) When appropriate, notify the applicant in writing of any incompleteness or error in the application and return the application for correction and completion;

(c) Determine, after appropriate investigation, whether the applicant has complied with the requirements of the Act and these regulations, and if appropriate, issue a Certificate of

Registration or a Farm Labor Contractor Employee Certificate of Registration authorizing the performance of one or more activities permitted under the Act;

(d) Authorize the activity of transporting a migrant or seasonal agricultural worker only upon receipt of (1) a statement in the manner prescribed by the Secretary identifying each vehicle to be used, or caused to be used, by the applicant for the transportation of any migrant or seasonal agricultural worker during the period for which registration is sought; (2) written proof that every such vehicle which is under the applicant's ownership or control, is in compliance with the vehicle safety requirements of the Act and these regulations; and (3) written proof that every such vehicle is in compliance with the insurance requirements of the Act and these regulations;

(e) Authorize the activity of driving a vehicle to transport a migrant or seasonal agricultural worker only upon receipt of (1) a doctor's certificate on the prescribed form, with an initial application for a Certificate of Registration or a Farm Labor Contractor Employee Certificate, and, when applying for a renewal, a new completed doctor's certificate if the previous doctor's certificate is more than three years old; and (2) evidence of a valid and appropriate license, as provided by State law, to operate the vehicle; and

(f) Authorize the activity of housing a migrant agricultural worker only upon receipt of (1) a statement identifying each facility or real property to be used for housing a migrant agricultural worker during the period for which registration is sought; and (2) if the facility or real property is or will be owned or controlled by the applicant, written proof that the facility or real property complies with the applicable Federal and State standards of health and safety. Such written proof may be either a certification issued by a State or local health authority or other appropriate agency, or a copy of a written request for the inspection of a facility or real property made to the appropriate State or local agency at least forty-five days prior to the date on which the facility or real property is to be occupied by migrant agricultural workers, dated and signed by the applicant or other person who owns or controls the facility or real property. If housing authorization is issued based on a written request for inspection and the housing facility or real property is subsequently inspected and does not meet the appropriate standards, the housing authorization is null and void. Should the required written proof for housing authorization be unavailable at the time of filing an application, the applicant must attest in writing that the applicant will not house any migrant agricultural worker in any facility or real property owned or controlled by the applicant, until such applicant shall have submitted all necessary written proof and obtained a Farm Labor Contractor Certificate of Registration showing that housing in the facility or real property is authorized by the Secretary of Labor. In such event, if otherwise eligible, the applicant will be issued a Certificate of Registration without a housing authorization. This certificate may be amended to include an authorization to house at such time as the required proof is forthcoming.

§ 500.50 Duration of certificate.

(a) Initial certificates of farm labor contractors and farm labor contractor employees.

(1) An initial certificate issued under the Act and these regulations shall expire twelve months from the date of issuance unless earlier suspended or revoked.

(2) Certificates applied for during the period beginning April 14, 1983, and ending November 30, 1983, may be issued for a period of up to twenty-four months for the purpose of an orderly transition to registration under the Act.

(3) Certificates issued to employees of farm labor contractors shall expire at the suspension, revocation or expiration of the farm labor contractor's Certificate of Registration under which such employee was authorized.

(b) Certificate renewal of farm labor contractors and farm labor contractor employees.

(1) A certificate issued under the Act and these regulations may be temporarily extended by the filing of an application with the Secretary at least thirty days prior to its expiration date. The authority to operate pursuant to a valid certificate under the Act and these regulations shall continue until the renewal application has been finally determined by the Secretary.

(2) A certificate issued under the Act and these regulations may be renewed by the Secretary for additional twelve-month periods or for periods in excess of twelve months but not in excess of twenty-four months.

(3) Eligibility for renewals of certificates under the Act and these regulations shall be limited to those farm labor contractors and farm labor contractor employees who have not been cited during the preceding five years for a violation of the Act or any regulation under the Act, or the Farm Labor Contractor Registration Act or any regulation under such Act.

(c) Continuation of certain FLCRA certificates.

(1) Certificates issued under FLCRA, and in effect on April 14, 1983, that are valid for the services performed under FLCRA, will be continued in effect and be accepted as authorization to perform like services under the Act and these regulations for the remainder of calendar year 1983. Such certificates will be subject to the Act and these regulations with respect to determinations to suspend, revoke or refuse renewal.

(2) Actions pending related to the suspension, revocation, or refusal to issue or renew FLCRA certificates shall continue through to a final determination. Any such certificate which is considered to be in effect under Title 29 CFR 40.21 pending a final determination, will be considered valid under MSPA, provided application for a certificate under MSPA is made no later than November 30, 1983.

§ 500.51 Refusal to issue or to renew, or suspension or revocation of certificate.

The Secretary may suspend or revoke or refuse to issue or to renew a Certificate of Registration (including a Farm Labor Contractor Employee Certificate) if the applicant or holder:

(a) Has knowingly made any misrepresentation in the application for such certificate;

(b) Is not the real party in interest in the application or Certificate of Registration and the real party in interest is a person who has been refused issuance or renewal of a certificate, has had a certificate suspended or revoked, or does not qualify under this section for a certificate;

(c) Has failed to comply with the Act or these regulations;

(d) Has failed to pay any court judgment obtained by the Secretary or any other person under the Act or these regulations or under the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act;

(e) Has failed to comply with any final order issued by the Secretary as a result of a violation of the Act or these regulations or a violation of the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act;

(f) Has been convicted within the preceding five years—

(1) Of any crime under State or Federal law relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with

or incident to any farm labor contracting activities, or

(2) Of any felony under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally.

§ 500.52 Right to hearing.

Any applicant or holder who desires an administrative hearing on the determination to refuse to issue or to renew, or to suspend or to revoke, a Certificate of Registration or a Farm Labor Contractor Employee Certificate of Registration, shall make a request in accordance with § 500.212, no later than thirty (30) days after service of the notice referred to in § 500.210.

§ 500.53 Nontransfer of certificate.

A Certificate of Registration may not be transferred or assigned.

§ 500.54 Change of address.

During the period for which the Certificate of Registration or Employee Certificate is in effect, each farm labor contractor or farm labor contractor employee shall provide to the Secretary, within thirty (30) days, a notice of each change of permanent place of residence in accordance with § 500.215.

§ 500.55 Changes to or amendments of certificate authority.

(a) During the period for which the Certificate or Registration is in effect, a farm labor contractor must apply to the Secretary to amend the Certificate of Registration whenever he intends to:

(1) Engage in another farm labor contracting activity;

(2) Use, or cause be used, another vehicle than that covered by the certificate to transport any migrant or seasonal agricultural worker, or

(3) Use, or cause to be used, another real property or facility to house any migrant agricultural worker than that covered by the certificate.

(b) Whenever another vehicle or housing facility or real property is or will be owned, operated, or controlled by the farm labor contractor, the farm labor contractor must submit the appropriate information to obtain transportation, driving or housing authorization, as applicable, as described in § 500.48, within 10 days after the contractor obtains or learns of the intended use of such vehicle or housing facility or real property.

(c) Notwithstanding submission of the appropriate information, the farm labor contractor must comply with all applicable motor safety, insurance, and housing safety and health provisions of the Act and these regulations. With regard to housing, the farm labor contractor must submit the appropriate housing documentation as well as comply with the housing safety and health provisions of the Act and these regulations, prior to occupancy by a migrant agricultural worker.

§ 500.56 Replacement of Certificate of Registration or Farm Labor Contractor Employee Certificate.

If a Certificate of Registration or a Farm Labor Contractor Employee Certificate is lost or destroyed, a duplicate certificate may be obtained by the submission to the regional office that issued it or to any regional office of the Wage and Hour Division, Employment Standards Administration, of a written statement explaining its loss or destruction, indicating where the original application was filed and requesting that a duplicate be issued.

Prohibition Against Employing Illegal Aliens

§ 500.58 Prohibition against recruiting, hiring, employing, or using an alien not lawfully admitted for permanent residence or authorized by Attorney General to accept employment.

It is a violation of the Act for a farm labor contractor to recruit, hire, employ, or use, with knowledge, the services of any individual who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

§ 500.59 Good faith reliance on documents.

A farm labor contractor will be considered in compliance with the prohibition against recruiting, hiring, employing or using the services of an illegal alien if the contractor can demonstrate that he relied in good faith on documentation, prescribed by the Secretary of Labor, attesting to a prospective employee's status as a United States citizen or as an individual lawfully authorized to work in the United States and the contractor had no reason to believe that the prospective employee was an illegal alien. Good faith reliance by the contractor on documentation prescribed by the Secretary of Labor will be deemed met by a written affirmation that the contractor relied on any of the following:

(a) Acceptable evidence of United States citizenship—

(1) Birth certificate.

(2) Certificate of citizenship.

(3) Certificate of naturalization.

(4) U.S. identification card (INS—Form I–179 or I–197).

(5) Passport issued by United States identifying person as citizen of United States.

(6) Consular report of birth (State Department Form FS–240).

(7) Baptismal certificate under seal of a church or other religious body which practices infant baptism showing the individual's date and place of birth within the United States, its territories or possessions.

(8) A document under seal of a religious body which does not practice infant baptism showing the individual's date and place of birth within the United States, its territories or possessions.

(9) Tribal enrollment card in an American Indian tribe recognized by the Bureau of Indian Affairs.

(10) Other written advice from the Immigration and Naturalization Service (INS) attesting that such person is a citizen of the United States.

(11) A copy of a declaration, signed by the applicant under penalty of prosecution for violation of Title 18 U.S.C. 1001, and witnessed by the signature of the appropriate official of the Employment Service, affixed in the presence of the applicant, filed with the United States Employment Service or any of its affiliated offices, attesting that such person is a citizen of the United States, was born at the place stated and on the date set forth thereon, and reciting the following additional information:

(i) Social Security number of such person (voluntary) and,

(ii) Names and addresses of three adult citizens of the United States who can be contacted to verify declarant's citizenship.

(12) A certificate issued by the Department of Labor, Bureau of Employment Security, Commonwealth of Puerto Rico which attests that, based upon examination of any of the documents prescribed by paragraphs (a)(1) through (11) of this section, the individual named and identified by the picture on that certificate was born within the United States (including its territories and possessions) at the place and on the date specified thereon and which sets forth such individual's home address (street and number, city, State, zip code) and Social Security number.

(b) INS—Form I–151 or I–551, Alien Registration Receipt Card, which is proof that the alien has been lawfully admitted to the United States for permanent residence. It is a wallet-sized laminated card, bearing a photograph of the alien and contains information

concering his alien registration number, date of admission as an immigrant, birth date and sex.

(c) INS—Form I-94 (with or without a passport)—

(1) INS—Form I-94 bearing an employment authorization consisting of the words "Employment Authorized."

(2) INS—Form I-94 bearing the designation of H-2, as endorsed on the front or back of the form, authorizing a person to engage only in agricultural employment during the period of such persons's authorized stay in the United States.

(d) Any other written advice from the Immigration and Naturalization Service (INS) that such person is an alien authorized by INS to accept such employment in agriculture in the United States.

(e) United States Armed Forces Discharge Papers.

Additional Obligations of Farm Labor Contractors and Farm Labor Contractor Employeres

§ 500.60 Farm labor contractors' recruitment, contractual and general obligations.

The Act imposes certain specific recruitment, contractual and general obligations on farm labor contractors and farm labor contractor employees. The contractor is responsible for any violations under the Act committed by his employee. Each of the following obligations apply to both farm labor contractors and farm labor contractor employees.

(a) Each farm labor contractor shall provide to any other farm labor contractor and to any agricultural employer and agricultural association to which such farm labor contractor has furnished any migrant or seasonal agricultural worker, copies of all records which such farm labor contractor is required to retain for each worker furnished or supplied. The recipient of these records shall keep them for a period of three years.

(b) Each farm labor contractor, without regard to any other provisions of this Act, shall obtain at each place of employment and make available for inspection to every worker he furnishes for employment, a written statement of the conditions of such employment as described in sections 201(b) and 301(b) of the Act and § 500.75 and 500.76 of these regulations. As with the written disclosure statements under §§ 500.76 and 500.77, these statements must be provided to the workers in English or, as necessary and reasonable, in Spanish or another language common to migrant or seasonal agricultural workers who are not fluent in English.

(c)(1) No farm labor contractor shall violate, without justification, the terms of any written agreements made with an agricultural employer or an agricultural association pertaining to any contracting activity or worker protection under the Act. Normally, "without justification" would not include situations in which failure to comply with the terms of any working arrangements was directly attributable to Acts of God, due to conditions beyond the control of the person or to conditions which he could not reasonably foresee.

(2) Written agreements do not relieve a farm labor contractor of any responsibility that such contractor would otherwise have under the Act and these regulations.

(d) All payroll records made by the farm labor contractor must be retained by him for a period of three years.

§ 500.61 Farm labor contractors must comply with all worker protections and all other statutory provisions.

Every farm labor contractor must comply with all of the provisions of Titles I through V of the Act and all of the subparts of these regulations, unless subject to a specific statutory exemption. In addition to complying with all of the standards stated in Subparts A and B of these regulations, every farm labor contractor must comply with each provision stated in Subpart C and the motor vehicle safety and insurance and housing standards stated in Subpart D.

§ 500.62 Obligations of a person holding a valid Farm Labor Contractor Employee Certificate of Registration.

Any person holding a valid Farm Labor Contractor Employee Certificate of Registration in accordance with the Act and these regulations is required to comply with the Act and these regulations to the same extent as if said person had been required to obtain a Certificate of Registration in such person's own name as a farm labor contractor.

Subpart C—Worker Protections

General

§ 500.70 Scope of worker protections.

(a) The Act provides protections for migrant and seasonal agricultural workers irrespective of whether they are employed by a farm labor contractor, an agricultural employer or an agricultural association, or, in the case of joint employment situations, by more than one of these persons. The Act's provisions include standards relating to vehicle safety, housing safety and health, disclosure of wages, hours and other conditions of employment, and recordkeeping. When any person not otherwise exempt from the Act recruits, solicits, hires, employs, furnishes or transports workers, that person is required to comply with the applicable protective provisions of the Act. In addition, any person not specifically exempt from coverage of the Act (irrespective of whether that person is an agricultural employer, an agricultural association or farm labor contractor) who owns or controls a facility or real property which is used as housing for any migrant agricultural workers must ensure that the facility or real property complies with all substantive Federal and State safety and health standards applicable to that type of housing.

(b) Joint employment under the Fair Labor Standards Act, which establishes responsibility for the maintenance of payroll records, payment of wages and posting of notices under that law, is joint employment under MSPA for establishing responsibility for the maintenance of records, payment of wages and the posting of required posters under MSPA. In such joint employment situations the responsibility for assuring these MSPA protections may be carried out by one of the joint employers. While under a joint employment relationship all joint employers are equally responsible for assuring that the appropriate protections are provided, the creation of such a joint employment relationship does not also require unnecessary duplication of effort as, for example, in relation to the posting of posters (see §§ 500.75(e) and 500.76(e)) or the provision of an itemized written statement of the worker's pay (see § 500.80(d)). Failure to provide protections coming within the joint employment relationship, however, will result in all joint employers being responsible for that failure.

(c) Responsibility for compliance with the motor vehicle safety and insurance provisions of section 401 of the Act and §§ 500.100 through 500.128 of these regulations is imposed upon the person or persons using or causing to be used, any vehicle for transportation of migrant or seasonal agricultural workers. As stated in these regulations, the transportation safety provisions do not include certain car pooling arrangements. Additionally, these regulations do not impose responsibility on an agricultural employer or agricultural association for a farm labor contractor's failure to adhere to the safety provisions provided in these regulations when the farm labor contractor is providing the vehicles and

directing their use. However, when an agricultural employer or agricultural association specifically directs a farm labor contractor to use the contractor's vehicle to carry out a task for the agricultural employer or agricultural association, such direction constitutes causing the vehicle to be used and the agricultural employer or agricultural association is jointly responsible with the farm labor contractor for assuring that the vehicle meets the insurance, and safety and health, provisions of these regulations. In all cases a person using a farm labor contractor is required to take reasonable steps to determine that the vehicle used by the farm labor contractor is authorized to be used for transportation as prescribed in Section 402 of the Act and § 500.71 of these regulations.

(d) Responsibility for compliance with the housing safety and health provisions of section 203 of the Act and §§ 500.130 through 500.135 of these regulations is imposed upon the person (or persons) who owns or controls a facility or real property used as housing for migrant agricultural workers. Any agricultural employer or agricultural association which has a farm labor contractor operate housing which it owns or controls is responsible, as well as the farm labor contractor, for insuring compliance with the housing safety and health provisions of these regulations. When the owner or operator of the housing is not an agricultural employer, agricultural association or farm labor contractor, the owner is responsible for that housing meeting the safety and health provisions under the Act and these regulations. This is subject to the exclusion stated in § 500.131 of these regulations which provides that the housing safety and health requirements do not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to any migrant agricultural worker of the same character and on the same or comparable terms and conditions as provided to the general public.

§ 500.71 Utilization of only registered farm labor contractors.

The Act prohibits any person from utilizing the services of a farm labor contractor to supply migrant or seasonal agricultural workers without first taking reasonable steps to determine that the farm labor contractor possesses a valid Certificate of Registration, issued pursuant to the Act, which authorizes the activity for which the contractor is to be utilized. This prohibition also applies to a farm labor contractor who wishes to utilize the services of another farm labor contractor. In making the determination about a contractor's registration status, a person may rely upon the contractor's possession of a Certificate of Registration which on its face is valid and which authorizes the activity for which the contractor is utilized. A person has the alternative to confirm the contractor's registration through the central registry maintained by the United States Department of Labor.

§ 500.72 Agreements with workers.

(a) The Act prohibits farm labor contractors, agricultural employers and agricultural associations from violating, without justification, the terms of any working arrangements they have made with migrant or seasonal agricultural workers. Normally, "without justification" would not include situations in which failure to comply with the terms of any working arrangements was directly attributable to acts of God, due to conditions beyond the control of the person or to conditions which he could not reasonably foresee.

(b) Written agreements do not relieve any person of any responsibility that the person would otherwise have under the Act of these regulations.

§ 500.73 Required purchase of goods or services solely from any person prohibited.

The Act prohibits a farm labor contractor, agricultural employer or agricultural association from requiring a migrant or seasonal agricultural worker to purchase goods or services solely from such farm labor contractor, agricultural employer, or agricultural association, or any other person acting as an agent for any person subject to this prohibition.

Recruiting, Hiring and Providing Information to Migrant Agricultural Workers

§ 500.75 Disclosure of information.

(a) Where disclosure is required, Department of Labor optional forms may be used to satisfy the requirements of disclosure under the Act.

(b) Each farm labor contractor, agricultural employer, and agricultural association which recruits any migrant agricultural worker shall ascertain to the best of his ability and disclose, in writing to the extent that he has obtained such information, to such worker at the time of recruitment, the following information:

(1) The place of employment;

(2) The wage rates (including piece rates) to be paid;

(3) The crops and kinds of activities on which the worker may be employed;

(4) The period of employment;

(5) The transportation, housing, and any other employee benefits to be provided, if any, and any costs to be charged for each of them;

(6) Worker's compensation and unemployment insurance;

(7) The existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and

(8) The existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

(c) Each farm labor contractor, agricultural employer and agricultural association which employs any migrant agricultural worker shall post (and maintain) in a conspicuous place at the place of employment a poster provided by the Secretary of Labor, which sets out the rights and protections for workers required under the Act.

(d) The employer (other than a farm labor contractor) of any migrant agricultural worker, shall provide at the place of employment on request of the worker, a written statement of the conditions of employment. A farm labor contractor shall provide such information in accordance with § 500.60(b) of these regulations.

(e) In a joint employment situation, each employer is equally responsible for displaying and maintaining the poster and for responding to worker requests for written statements of the conditions of employment which are made during the course of employment. This joint responsibility, however, does not require needless duplication, such as would occur if each employer posted the same poster or provided the same written statement with respect to the same employment conditions. Failure to provide the protection required by a joint employment relationship, however, will result in all joint employers being responsible for that failure.

(f) Each farm labor contractor, agricultural employer and agricultural association which provides housing for any migrant agricultural worker shall post in a conspicuous place (at the site of the housing) or present in the form of a written statement to the worker the following information on the terms and conditions of occupancy of such housing, if any:

(1) The name and address of the farm labor contractor, agricultural employer

or agricultural association providing the housing;

(2) The name and address of the individual in charge of the housing;

(3) The mailing address and phone number where persons living in the housing facility may be reached;

(4) Who may live at the housing facility;

(5) The charges to be made for housing;

(6) The meals to be provided and the charges to be made for them

(7) The charges for utilities; and

(8) Any other charges or conditions of occupancy.

(g) If the terms and conditions of occupancy are posted, the poster shall be displayed and maintained during the entire period of occupancy. If the terms and conditions of occupancy are disclosed to the worker through a statement (rather than through a posting), such statement shall be provided to the worker prior to occupancy. Department of Labor optional forms may be used to satisfy this requirement.

Hiring and Providing Information to Seasonal Agricultural Workers

§ 500.76 Disclosure of information.

(a) Where disclosure is required, Department of Labor optional forms may be used to satisfy the requirements of disclosure under the Act.

(b) Each farm labor contractor, agricultural employer and agricultural association, which recruits any seasonal agricultural worker for employment on a farm or ranch to perform field work related to planting, cultivating or harvesting operations, shall ascertain and, upon request, disclose in writing the following information to such worker when an offer of employment is made:

(1) The place of employment;

(2) The wage rates (including piece rates) to be paid;

(3) The crops and kinds of activities on which the worker may be employed;

(4) The period of employment;

(5) The transportation and any other employee benefits to be provided, if any, and any costs to be charged for each of them;

(6) Worker's compensation and unemployment insurance;

(7) The existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and

(8) The existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

(c) Each farm labor contractor, agricultural employer and agricultural association which recruits any seasonal agricultural worker for employment through the use of day-haul operation in canning, packing, ginning, seed conditioning or related research, or processing operations, shall ascertain and disclose in writing to the worker at the time of recruitment the information on employment conditions set out in paragraph (b) of this section.

(d) (1) Each farm labor contractor, agricultural employer and agricultural association which employs any seasonal agricultural worker shall post (and maintain) at the place of employment in a conspicuous place readily accessable to the worker a poster provided by the Secretary of Labor which sets out the rights and protections for such worker required under the Act.

(2) Such employer shall provide, on request of the worker, a written statement of the information described in paragraph (b) of this section.

(e) In a joint employment situation, each employer is equally responsible for displaying and maintaining the poster and for responding to worker requests for written statements of the conditions of employment which are made during the course of employment. This joint responsibility, however, does not require needless duplication, such as would occur if each empoyer posted the same poster or provided the same written statement with respect to the same employment conditions.

Employment Information Furnished

§ 500.77 Accuracy of information furnished.

No farm labor contractor, agricultural employer or agricultural association shall knowingly provide false or misleading information on the terms, conditions or existence of agricultural employment and housing required to be disclosed by the Act and these regulations to any migrant or seasonal agricultural worker.

§ 500.78 Information in foreign language.

Each farm labor contractor, agricultural employer and agricultural association shall make all required written disclosures to the worker, including the written disclosures of the terms and conditions of occupancy of housing to be provided to any migrant worker, in English or, as necessary and reasonable, in Spanish or another language common to migrant or seasonal agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, Haitian-Creol and other languages, as necessary, which may be used in providing workers with such information.

Wages and Payroll Standards

§ 500.80 Payroll records required.

(a) Each farm labor contractor, agricultural employer and agricultural association which employs any migrant or seasonal agricultural worker shall make and keep the following records with respect to each worker including the name, permanent address, and Social Security number:

(1) The basis on which wages, are paid;

(2) The number of piecework units earned, if paid on a piecework basis;

(3) The number of hours worked;

(4) The total pay period earnings;

(5) The specific sums withheld and the purpose of each sum withheld; and

(6) The net pay.

(b) Each farm labor contractor, agricultural employer and agricultural association which employs any migrant or seasonal agricultural worker shall preserve all payroll records with respect to each such worker for a period of three years.

(c) In any situation in which a joint employment relationship does not exist the farm labor contractor furnishing any migrant or seasonal agricultural worker to any person must furnish such person a copy of all payroll records required under paragraph (a) of this section which he has made regarding such workers for that place of employment. The person receiving such records shall maintain them for a period of three years.

(d) In addition to making records of this payroll information, the farm labor contractor, agricultural employer and agricultural association shall provide each migrant or seasonal agricultural worker employed with an itemized written statement of this information at the time of payment for each pay period which must be no less often than every two weeks (or semi-monthly). Such statement shall also include the employer's name, address, and employer indentification number assigned by the Internal Revenue Service. This responsibility does not require needless duplication such as would occur if each provided the worker with a written itemized statement for the same work.

§ 500.81 Payment of wages when due.

Each farm labor contractor, agricultural employer and agricultural

association which employs any migrant or seasonal agricultural worker must pay the wages owed such worker when due. In meeting this responsibility, the farm labor contractor, agricultural employer and agricultural association shall pay the worker no less often than every two weeks (or semi-monthly).

Subpart D—Motor Vehicle Safety and Insurance for Transportation of Migrant and Seasonal Agricultural Workers, Housing Safety and Health for Migrant Workers

Motor Vehicle Safety

§ 500.100 Transportation vehicle safety standards.

(a) Each farm labor contractor, agricultural employer and agricultural association which uses, or causes to be used, any vehicle to transport a migrant or seasonal agricultural worker shall ensure that such vehicle conforms to vehicle safety standards prescribed by the Secretary of Labor under the Act and with other applicable Federal and State safety standards. Each farm labor contractor, agricultural employer and agricultural association shall also ensure that each driver of any such vehicle has a currently valid motor vehicle operator's permit or license, as provided by applicable State law, to operate the vehicle.

(b) The term "uses or causes to be used" as set forth in paragraph (a) of this section does not include carpooling arrangements made by the workers themselves, using one of the workers' own vehicles. However, carpooling does not include any transportation arrangement in which a farm labor contractor participates or which is directed by an agricultural employer or an agricultural association.

(c) All transportation of migrant and seasonal agricultural workers, whether on the farm or on the road, shall be subject to the vehicle safety standards and the insurance requirements of the Act, except for activities under the circumstances set out in § 500.103.

§ 500.101 Interstate Commerce Act standards.

Except as specifically provided in § 500.102, pursuant to Section 401(b)(2)(D) of the Act, the standards prescribed under Section 204(a)(3a) of the Interstate Commerce Act (49 U.S.C. 304(a)(3a)) shall apply, without regard to the mileage and boundary limitations contained therein, to any vehicle used or caused to be used by any farm labor contractor, agricultural employer or agricultural association to transport any migrant or seasonal agricultural worker; and any violation thereof shall be considered a violation of the Act.

§ 500.102 Applicability of Secretary's standards.

(a) Any passenger automobile or station wagon used or caused to be used by any farm labor contractor, agricultural employer or agricultural association to transport any migrant or seasonal agricultural worker shall meet the vehicle safety standards prescribed in § 500.105.

(b) Any vehicle, other than a passenger automobile or station wagon, used or caused to be used by any farm labor contractor, agricultural employer or agricultural association to transport any migrant or seasonal agricultural worker pursuant to a day-haul operation shall be subject to the safety standards prescribed under section 204(a)(3a) of the Interstate Commerce Act, without regard to the mileage and boundary line limitations contained therein.

(c) Any vehicle, other than a passenger automobile or station wagon, which has been or is being used or caused to be used for any trip of a distance greater than 75 miles by a farm labor contractor, agricultural employer or agricultural association to transport any migrant or seasonal agricultural worker, shall be subject to the safety standards prescribed under section 204 (a)(3a) of the Interstate Commerce Act, without regard to the mileage and boundary line limitations contained therein. One trip may have numerous intermediate stops.

(d) Any vehicle, other than a passenger automobile or station wagon, used or caused to be used by any farm labor contractor, agricultural employer of agricultural association to transport any migrant or seasonal agricultural worker in any manner not addressed by paragraphs (a), (b), or (c) of this section shall meet the vehicle safety standards prescribed in § 500.105.

(e) The use or intended use of a vehicle, other than a passenger automobile or station wagon, for transportation of the type identified in § 500.102(b) or § 500.102(c) will make the vehicle subject to the standards prescribed under section 204(a)(3a) of the Interstate Commerce Act, without regard to the mileage and boundary line limitations contained therein, so long as the vehicle is used for transportation subject to the Act and these regulations.

(f) Any pickup truck when transporting passengers only within the cab shall be treated as a station wagon.

(g) Pursuant to section 401(b)(2)(C) of the Act, standards prescribed by the Secretary shall be in addition to, and shall not supersede nor modify, any standard prescribed under part II of the Interstate Commerce Act of 1949 (49 U.S.C. 301 *et seq.*).

§ 550.103 Activities not subject to vehicle safety standards.

(a) *Agricultural machinery and equipment excluded.* Vehicle safety standards or insurance requirements issued under the Act and these regulations do not apply to the transportation of any seasonal or migrant agricultural worker on a tractor, combine, harvester, picker, other similar machinery and equipment while such worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or the care of livestock or poultry. This exclusion applies only to workers carrying out these activities on such machinery and equipment or being engaged in transportation incidental thereto. The exclusion does include the use of such machinery for the transportation of any worker under any other circumstances.

(b) *Exclusion for immediate family transporting family members.* The standards of this subpart do not apply to an individual migrant or seasonal agricultural worker when the only other occupants of that individual's vehicle consist of his immediate family members.

(c) Vehicle safety standards or insurance requirements of the Act and these regulations do not apply to carpooling arrangements made by the workers themselves, using one of the workers' own vehicles and not directed by an agricultural employer or agricultural association. Carpooling, however, does not include any transportation arrangement in which a farm labor contractor participates.

§ 500.104 Transportation subject to Department of Labor standards.

In developing the regulations in § 500.105, the Secretary has considered among other factors: (a) the type of vehicle used, (b) the passenger capacity of the vehicle, (c) the distance which such workers will be carried in the vehicle, (d) the type of roads and highways on which such workers will be carried in the vehicle, and (e) the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

§ 500.105 Department of labor standards for passenger automobiles and station wagons and transportation of seventy-five miles or less.

Passenger automobiles and station wagons and other vehicles used only for transportation as provided in

§ 500.102(a) and 500.102(b) shall comply with the following vehicle safety standards:

(a) *External Lights:* Head lights, tail lights, stop lights, back-up lights, turn signals and hazard warning lights shall be operable.

(b) *Brakes:* Every vehicle shall be equipped with operable brakes for stopping and holding on an incline. Brake systems shall be free of leaks.

(c) *Tires:* Tires shall have at least 2/32 inch tread depth, and have no cracks/defects in the sidewall.

(d) *Steering:* The steering wheel and associated mechanism shall be maintained so as to safely and accurately turn the vehicles.

(e) *Horn:* Vehicles shall have an operable air or electric horn.

(f) *Mirrors:* Mirrors shall provide the driver full vision of the sides and to the rear of the vehicle.

(g) *Windshields/Windshield Wipers:* Windshields and windows may not have cracks or opaque obstructions which obscure vision. Vehicles shall be equipped with windshield wipers that are operational to allow the operator full frontal vision in all weather conditions.

(h) *Fuel System:* Fuel lines and the fuel tank shall be free of leaks. The tank shall be fitted with a cap to securely cover the filling opening.

(i) *Exhaust System:* The exhaust system shall discharge carbon monoxide away from the passenger compartment and be free of leaks beneath the passenger compartment.

(j) *Ventilation:* Windows will be operational to allow fresh air to the occupants of the vehicle.

(k) *Safe Loading:* Vehicles will not be driven when loaded beyond the manufacturer's gross vehicle weight rating.

(l) *Seats:* Seats: A seat securely fastened to the vehicle will be provided for each occupant or rider in, or on, any vehicle, except that transportation which is primarily on private farm roads will be excused from this requirement provided the total distance traveled does not exceed ten (10) miles, and so long as the trip begins and ends on a farm owned or operated by the same employer.

(m) *Handles and Latches:* Door handles and latches shall be provided and maintained to allow exiting capability for vehicle occupants.

(n) *Passenger compartment:* Floor and sides of any part of the vehicle to be occupied by passengers must be free of openings, rusted areas or other defects which are likely to result in injury to passengers.

§ 500.106 proof of compliance with vehicle safety standards.

Prime facie evidence that safety standards have been met will be shown by the presence of a current State vehicle inspection sticker. Such sticker will not, however, relieve the farm labor contractor, agricultural employer or agricultural association from responsibility for maintaining the vehicle in accordance with § 500.101 through 500.105, as applicable.

Insurance

§ 500.120 Insurance policy or liability bond is required for each vehicle used to transport any migrant or seasonal agricultural worker.

A farm labor contractor, agricultural employer or agricultural association shall not transport any migrant or seasonal agricultural worker or his property in any vehicle such contractor, employer or association owns, operates, controls, or causes to be operated unless he has an insurance policy or liability bond in effect which insures against liability for damage to persons or property arising from the ownership, operation, or causing to be operated of such vehicle. Generally, the owner or lessor of the vehicle will be responsible for providing the required insurance. The insurance requirements do not apply to vehicles involved in carpooling arrangements made by the workers themselves, using one of the workers' own vehicles. However, carpooling does not include any transportation arrangement in which a farm labor contractor participates.

§ 500.121 Level of insurance required.

(a) Except to the extent that other arrangements pursuant to section 500.124 of this part have been approved by the Secretary, or that workers' compensation insurance is applicable as discussed in § 500.122, a farm labor contractor, agricultural employer or agricultural association shall, in order to meet the insurance requirements in § 500.120, obtain a vehicle liability insurance policy, including a liability endorsement, which provides insurance in an amount not less than the amount applicable to vehicles used in the transportation of passengers under the Interstate Commerce Act and regulations promulgated thereto.

(b) The amounts of insurance required under paragraph (a) of this section currently are as follows:

INSURANCE REQUIRED FOR PASSENGER EQUIPMENT

	12 or less passengers	More than 12 passengers
Limit for bodily injuries to or death of one (1) person	$100,000	$100,000
Limit for bodily injuries to or death of all persons injured or killed in any one (1) accident (subject to a maximum of $100,000 for bodily injuries to or death of one (1) person	300,000	500,000
Limit for loss or damage in any one (1) accident to property of others (excluding cargo)	50,000	50,000

(c) The insurance to be obtained under paragraph (a) of this section shall be issued by an insurance carrier licensed or otherwise authorized to do business in the State in which the insurance is obtained.

(d) An agricultural employer or agricultural association may evidence the purchase of liability insurance which covers the workers while being transported, as required under paragraph (a) by obtaining and making available upon request to the Department of Labor a completed liability certificate of insurance showing that the passenger hazard is included. A farm labor contractor must obtain such a certificate and provide a copy to the Administrator when applying for authorization to transport migrant or seasonal agricultural workers.

(e) With respect to an agricultural employer or agricultural association, in the absence of the insurance certificate referred to under paragraph (d) of this section, the Department of Labor will look to the actual policy of insurance in determining compliance with the insurance requirements.

§ 500.122 Adjustments in insurance requirements when workers' compensation coverage is provided under State law.

(a) If a farm labor contractor, agricultural employer or agricultural association referred to in § 500.120 is the employer of a migrant or seasonal agricultural worker for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by such State law, the following adjustments in the insurance requirements relating to having an insurance policy or liability bond apply:

(1) No vehicle liability insurance policy or liability bond shall be required of the employer, if such worker is transported only under circumstances for which there is coverage under such State law.

(2) A liability insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such worker is not provided under such State law.

(b) Where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker by the employer, the workers' compensation benefits are the exclusive remedy for loss under this Act in the case of bodily injury or death.

(c) A farm labor contractor, agricultural employer or agricultural association who is the employer of a migrant or seasonal agricultural worker may evidence the issuance of workers' compensation insurance and passenger insurance under paragraphs (a) and (b) of this section respectively by obtaining and making available upon request to the Department of Labor:

(1) A workers' compensation coverage policy of insurance, and

(2) A liability certificate of insurance covering transportation of all passengers who are not employees and of workers whose transportation by the employer is not covered by workers' compensation insurance.

(d) In the absence of the insurance certificate referred to under paragraph (c)(2) of this section, the Department of Labor will look to the actual policy of insurance in determining compliance with the Act and these regulations.

§ 500.123 Property damage insurance required.

(a) When a person who is an employer of a migrant or seasonal agricultural worker provides workers' compensation insurance which protects such worker in the event of bodily injury or death while the worker is being transported, such person must also obtain insurance providing a minimum of $50,000 for loss or damage in any one accident to the property of others (excluding cargo), or evidence of a general liability insurance policy that provides the same protection.

(b) Such person may evidence the purchase of motor carrier insurance or other appropriate insurance providing such property damage protection by obtaining and making available upon request to the Department of Labor a vehicle or other liability certificate of insurance showing that such person has obtained the property damage insurance required under paragraph (a) of this section.

(c) In the absence of the insurance certificate referred to in paragraph (b) of this section, the Department of Labor will look to the actual policy of insurance in determining compliance with paragraph (a) of this section.

§ 500.124 Liability bond in lieu of insurance policy.

Financial responsibility in lieu of insurance may be evidenced by a liability bond executed as the "principal" by the person who will be transporting a migrant or seasonal agricultural worker, together with a third party identified in the instrument as the "surety", to assure payment of any liability up to $500,000 for damages to persons or property arising out of such person's ownership of, operation of, or causing to be operated any vehicle for the transportation of such worker in connection with the person's business, activities, or operations. The "surety" shall be one which appears on the list contained in Treasury Department Circular 570, or which has been approved by the Secretary under the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406). Treasury Department Circular 570 may be obtained from the U.S. Treasury Department, Audit Staff, Bureau of Government Financial Operations, Washington, D.C. 20226.

§ 500.125 Qualifications and eligibility of insurance carrier or surety.

A policy of insurance or surety bond does not satisfy the financial responsibility of requirements of the Act and these regulations unless the insurer or surety furnishing the policy or bond to any farm labor contractor, agricultural employer or agricultural association is:

(a) Legally authorized to issue such policies or bonds in the State in which the transportation occurs; or

(b) Legally authorized to issue such policies or bonds in the State in which the farm labor contractor, agricultural employer or agricultural association has its principal place of business or permanent residence and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the transportation occurs; or

(c) Legally authorized to issue such policies or bonds in any State of the United States and eligible as an excess or surplus lines insurer in any State in which business is written and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the transportation occurs.

§ 500.126 Duration of insurance or liability bond.

Any insurance policy or liability bond which is obtained pursuant to the Act shall provide the required coverage for the full period during which the person shall be engaged in transporting any migrant or seasonal agricultural worker within the meaning of the Act.

§ 500.127 Limitations on cancellation of insurance or liability bond of registered farm labor contractors.

Any insurance policy or liability bond obtained by a farm labor contractor who is required to register with the Department of Labor shall provide that it shall not be cancelled, rescinded, or suspended, nor become void for any reason whatsoever during such period in which the insurance or liability bond is required by the Act to be effective, except upon the expiration of the term for which it is written; or unless the parties desiring to cancel shall have first given thirty (30) days notice to the Administrator. The notice will include a statement setting forth the reason for cancellation, rescission, suspension, or any other termination of such policy or bond. The notice shall be in writing and forwarded via certified or registered mail, addressed to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Said thirty (30) days notice shall commence to run from the date notice is actually received by the Administrator.

§ 500.128 Cancellation of insurance policy or liability bond not relief from insurance requirements.

Cancellation, rescission, suspension, or any other termination of any insurance policy or liability bond required by the Act does not relieve a person who transports or causes to be transported any migrant or seasonal agricultural worker in any vehicle under his ownership or control of the responsibility to comply with the insurance requirements specified in §§ 500.121, 500.122 and 500.123.

Housing Safety and Health

§ 500.130 Application and scope of safety and health requirement.

(a) Each person who owns or controls a facility or real property which is used as housing for any migrant agricultural worker must ensure that the facility or real property complies with all substantive Federal and State safety and health standards applicable to such housing. If more than one person is involved in providing the housing for any migrant agricultural worker (for example, when an agricultural employer

owns it and a farm labor contractor operates it), both persons are responsible for ensuring that the facility or real property meets the applicable Federal and State housing standards.

(b) A farm labor contractor, agricultural employer, agricultural association or other person is deemed an "owner" of a housing facility or real property if said person has a legal or equitable interest in such facility or real property.

(c) A farm labor contractor, agricultural employer, agricultural association or other person is in "control" of a housing facility or real property, regardless of the location of such facility, if said person is in charge of or has the power or authority to oversee, manage, superintend or administer the housing facility or real property either personally or through an authorized agent or employee, irrespective of whether compensation is paid for engaging in any of the aforesaid capacities.

(d) The Occupational Safety and Health Administration (OSHA) is the agency of the U.S. Department of Labor which administers the Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) which provides for the establishment of safety and health standards generally.

(e) The Employment and Training Administration (ETA) is the agency of the U.S. Department of Labor which administers the U.S. Employment Service pursuant to the Wagner-Peyser Act (29 U.S.C. 49 *et seq.*) including the interstate clearance order system.

§ 500.131 Exclusion from housing safety and health requirement.

The housing safety and health requirements do not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to any migrant agricultural worker of the same character and on the same or comparable terms and conditions as provided to the general public.

§ 500.132 Applicable Federal standards: ETA and OSHA housing standards.

(a) For the purpose of these regulations the applicable Federal housing standards are the standards promulgated by the Employment and Training Administration, at 20 CFR 654.404 *et seq.* and the standards promulgated by the Occupational Safety and Health Administration, at 29 CFR 1910.142. Except as provided in § 500.131, all migrant housing is subject to either the ETA standards or the OSHA standards, as follows:

(1) A person who owns or controls a facility or real property to be used for housing any migrant agricultural worker, the construction of which was begun on or after April 3, 1980, and which was not under a contract for construction as of March 4, 1980, shall comply with the substantive Federal safety and health standards promulgated by OSHA at 29 CFR 1910.142. These OSHA standards are enforceable under MSPA, irrespective of whether housing is, at any particular point in time, subject to inspection under the Occupational Safety and Health Act.

(2) A person who owns or controls a facility or real property to be used for housing any migrant agricultural worker which was completed or under construction prior to April 3, 1980, or which was under a contract for construction prior to March 4, 1980, may elect to either comply with the substantive Federal safety and health standards promulgated by OSHA at 29 CFR 1910.142 or the standards promulgated by ETA at 20 CFR 654.404 *et seq.* The ETA standards were established to provide housing requirements for migrant housing used by an employer obtaining migrant workers through the U.S. Employment Service. The owner or operator of such housing may continue to rely on those standards, rather than ODHA standards, even if the housing is not currently being provided pursuant to a USES job placement program.

§ 500.133 Substantive Federal and State safety and health standards defined.

Substantive safety and health standards include, but are not limited to, those that provide fire prevention, an adequate and sanitary supply of water, well maintained plumbing, structurally sound construction of buildings, effective maintenance of those buildings, provision of adequate heat as weather conditions require, and reasonable protections for inhabitants from insects and rodents. Substantive housing standards do not include technical or procedural violations of safety and health standards; nor do they include any de minimus violation of a substantive standard that presents no reasonable likelihood of risk to the safety or health of a housed worker.

§ 500.134 Compliance with State standards.

Compliance with the substantive Federal housing safety and health standards shall not excuse noncompliance with applicable substantive State housing safety and health standards.

§ 500.135 Certificate of housing inspection.

(a) Except as provided in paragraph (c) of this section, a facility or real property to be used for housing a migrant agricultural worker shall not be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency, including a Federal agency, has certified that the facility or real property meets applicable safety and health standards.

(b) Except as provided in paragraph (c) of this section, the person who owns or controls a facility or real property shall not permit it to be occupied by any migrant agricultural worker unless a copy of a certificate of occupancy from the State, local or Federal agency which conducted the housing safety and health inspection is posted at the site of the facility or real property. The original of such certificate of occupancy shall be retained by such person for three years and made available for inspection in accordance with section 512 of the Act.

(c) If a request for an inspection of a facility or real property is made to the appropriate State, local or Federal agency at least forty-five (45) days prior to the date on which it is to be occupied by a migrant agricultural worker but the agency has not conducted an inspection by such date, the facility or property may be occupied by migrant agricultural workers.

(d) Receipt and posting of a certificate of occupancy as provided under paragraph (b) of this section, or the failure of an agency to inspect a facility or property within the forty-five (45) day time period, shall not relieve the person who owns or controls a facility or property from the responsibility of ensuring that such facility or property meets the applicable State and Federal safety and health standards. Once such facility or property is occupied, such person shall supervise and continually maintain such facility or property so as to ensure that it remains in compliance with the applicable safety and health standards.

Subpart E—Enforcement

§ 500.140 General.

Whenever the Secretary believes that the Act or these regulations have been violated he shall take such action and institute such proceedings as he deems appropriate, including (but not limited to) the following:

(a) Recommend to the Attorney General the institution of criminal proceedings against any person who willfully and knowingly violates the Act or these regulations;

(b) Recommend to the Attorney General the institution of criminal proceedings against any farm labor contractor who recruits, hires, employs, or uses, with knowledge, the services of any illegal alien, as defined in §500.20(n) of these regulations, if such farm labor contractor has:

(1) Been refused issuance or renewal of, or has failed to obtain, a Cerificate of Registration, or

(2) Is a farm labor contractor whose certificate has been suspended or revoked;

(c) Petition any appropriate District Court of the United States for temporary or permanent injunctive relief to prohibit violation of the Act or these regulations by any person;

(d) Assess a civil money penalty against any person for any violation of the Act or these regulations;

(e) Refer any unpaid civil money penalty which has become a final and unappealable order of the Secretary or a final judgment of a court in favor of the Secretary to the Attorney General for recovery;

(f) Revoke or suspend or refuse to issue or renew any Certificate of Registration authorized by the Act or these regulations;

(g) Deny the facilities and services afforded by the Wagner-Peyser Act to any farm labor contractor who refuses or fails to produce, when asked, a valid Certificate of registration;

(h) Institute action in any appropriate United States District Court against any person who, contrary to the provisions of section 505(a) of the Act, discriminates against any migrant or seasonal agricultural worker.

§ 500.141 Concurrent actions.

The taking of any one of the actions referred to in § 500.140 shall not be a bar to the concurrent taking of any other action authorized by the Act and these regulations.

§ 500.142 Representation of the Secretary.

(a) Except as provided in section 518(a) of Title 28, U.S. Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under the Act; but all such litigation shall be subject to the direction and control of the Attorney General.

(b) The Solicitor of Labor, through the authorized representatives identified in § 500.231, shall represent the Secretary in all administrative hearings under the Act and these regulations.

§ 500.143 Civil money penalty assessment.

(a) A civil money penalty may be assessed for each violation of the Act or these regulations.

(b) In determining the amount of penalty to be assessed for any violation of the Act or these regulations the Secretary shall consider the type of violation committed and other relevant factors, including but not limited to the following:

(1) Previous history of violation or violations, of this Act and the Farm Labor Contractor Registration Act.

(2) The number of workers affected by the violation or violations.

(3) The gravity of the violation or violations.

(4) Efforts made in good faith to comply with the Act.

(5) Explanation of person charged with the violation or violations.

(6) Commitment to future compliance taking into account the public health, interest or safety and whether the person has previously violated the Act.

(7) The extent to which the violator achieved a financial gain due to the violation, or the potential financial loss or potential injury to the workers.

§ 500.144 Civil money penalties—payment and collection.

Where the assessment is directed in a final order by the Secetary or in a final judgment issued by a United States District Court, the amount of the penalty is immediately due and payable to the United States Department of Labor. The person assessed such penalty shall remit promptly the amount thereof, as finally determined, to the Secretary by certified check or by money order, made payable to the order of "Wage and Hour Division, Labor." The remittance shall be delivered or mailed either to the Administrator, in Washington, D.C., or to the Wage and Hour Division Regional Office for the area in which the violations occurred.

§ 500.145 Registration determinations.

Section 500.51 set forth the standards under which the Secretary may refuse to issue or to renew, or may suspend or revoke, a Certificate of Registration (including a Farm Labor Contractor Employee Certificate or Registration).

§ 500.146 Continuation of matters involving violations of FLCRA.

(a) Any matter involving the revocation, suspension, or refusal to renew a Certification of Registration issued under FLCRA and any matter involving the refusal to issue a certificate authorized under FLCRA shall continue through final administrative determination in accordance with the provisions of FLCRA and the regulations issued thereunder.

(b) Any matter involving the assessment of a civil money penalty for a violation of FLCRA will continue through final administrative determination in accordance with the provisions of FLCRA and the regulations issued thereunder.

(c) The rules of practice for implementation of administrative enforcement for violations of FLCRA referred to the Office of the Chief Administrative Labor Judge on or after April 14, 1983, shall be the rules of practice provided in §§ 500.220 through 500.262 and the official record shall be maintained in accordance with §§ 500.270 and 500.271 of these regulations.

(d) The rules of practice for implementation of administrative enforcement for violations of FLCRA referred to the office of the Chief Administrative Law Judge prior to April 14, 1983 shall be the rules of practice provided in 29 CFR 40.201 through 40.262.

Agreements With Federal and State Agencies

§ 500.155 Authority.

Section 513 of the Act authorizes the Secretary to enter into agreements with Federal and State agencies (a) to use their facilities and services, (b) to delegate (subject to subsection 513(b) of the Act) to Federal and State agencies such authority (other than rulemaking) as he determines may be useful in carrying out the purposes of the Act, and (c) to allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to paragraphs (a) or (b) of this section.

§ 500.156 Scope of agreements with Federal agencies.

Every agreement between the Secretary and any other Federal agency under the authority referred to in § 500.155 of this Part shall contain terms and conditions mutually agreeable to both parties, and shall contain such delegation of authority as the Secretary deems useful.

§ 500.157 Scope of agreements with State agencies.

(a) Every agreement between the Secretary and any State agency under the authority referred to in § 500.155 of this Part shall be in writing.

(b) Any delegation to a State agency by the Secretary under such authority shall be made pursuant to approval of a written State plan submitted in accordance with § 500.159 which shall (1) include a description of each function to be performed, the method of performing each such function; and the resources to be devoted to the performance of each such function; (2) provide assurances satisfactory to the Secretary that the State agency will comply with its description under paragraph (b)(1) of this section and that the State agency's performance of the delegated functions will be at least comparable to the performance of such functions by the Department of Labor; and (3) contain a certification of the Attorney General of such State, or, if the Attorney General is not authorized to make such a statement, the State official who is so authorized, that an agreement pursuant to such State plan is valid under the laws of that State.

§ 500.158 Functions delegatable.

The Secretary may delegate to the State such functions as he deems useful including the

(a) Receipt, handling and processing of applications for certificates of registration;

(b) Issuance of certificates of registration;

(c) Conduct of various investigations; and

(d) Enforcement of the Act.

§ 500.159 Submission of plan.

(a) Any State agency desiring to enter into an agreement pursuant to section 513 of the Act shall submit a State plan in such form and in such detail as the Secretary shall direct.

(b) Each such plan shall include, at least, the following:

(1) The delegation sought;

(2) The State authority for performing such delegated functions;

(3) A description of the manner in which the State intends to carry out such functions; and

(4) The estimated cost of carrying out such functions.

§ 500.160 Approved State plans.

(a) The Secretary, in accordance with the authority referred to in § 500.155 of this Part has delegated the following functions to the States listed herein below:

State	Function
None	

(b) Every State agreement entered into pursuant to the authority referred to in § 500.155 of this Part shall be available for public inspection and copying in accordance with 29 CFR Part 70.

§ 500.161 Audits.

The Secretary shall conduct audits as he deems necessary of the State plans, but on not less than an annual basis.

§ 500.162 Reports.

The Secretary shall require such reports as he deems necessary of activities conducted pursuant to State plans, but on not less than an annual basis.

Central Public Registry

§ 500.170 Establishment of registry.

The Administrator shall establish a central public registry of all persons issued a Certificate of Registration or a Farm Labor Contractor Employee Certificate. The central public registry shall be available at the Regional Offices of the Wage and Hour Division and its National Office in Washington, D.C. Information filed therein shall be made available upon request. Requests for information contained in the registry may be directed by mail to the Administrator, Wage and Hour Division, Attn: MSPA, U.S. Department of Labor, Washington, D.C. 20210. Alternatively, requests for registry information may be made by telephone by calling 1–800–368–1008, a toll-free number, during the hours of 8:15 a.m. to 4:45 p.m., Eastern time, on week days. Telephone requests within the Washington, D.C. metropolitan area may be made by calling 647–1016.

Subpart F—Administrative Proceedings

General

§ 500.200 Establishment of procedures and rules of practice.

This subpart codifies and establishes the procedures and rules of practice necessary for the administrative enforcement of the Act.

§ 500.201 Applicability of procedures and rules.

(a) The procedures and rules contained herein prescribe the administrative process necessary for a determination:

(1) To suspend or revoke, or to refuse to issue or renew, a Certificate of Registration authorized under the Act and these regulations; and

(2) To impose an assessment of civil money penalties for violations of the Act or of these regulations.

(b) The procedures and rules contained herein specify the administrative responsibility under section 102(5) of the Act with regard to a designation by a court of the Secretary as an agent of an applicant for a certificate of registration in any action against such applicant, if said applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

Procedures Relating to Hearing

§ 500.210 Written notice of determination required.

(a) Whenever the Secretary determines to suspend or revoke, or to refuse to issue or renew, a Certificate of Registration, the applicant for or the holder of such certificate shall be notified in writing of such determination.

(1) In cases involving a determination relating to a Certificate of Registration applied for by, or issued to, a farm labor contractor, written notice shall also be given to every applicant for or holder of a Certificate of Registration as an employee of such contractor.

(2) In cases involving a determination relating to a Farm Labor Contractor Employee Certificate of Registration, written notice shall also be given to the farm labor contractor of such applicant or certificate holder.

(b) Whenever the Secretary determines to assess a civil money penalty for a violation of the Act or these regulations, the person against whom such penalty is assessed shall be notified in writing of such determination.

§ 500.211 Contents of notice.

The notice required by § 500.210 shall:

(a) Set forth the determination of the Secretary and the reason or reasons therefor.

(b) Set forth, in the case of civil money penalty assessment:

(1) A description of each violation; and

(2) The amount assessed for each violation.

(c) Set forth the right to request a hearing on such determination.

(d) Inform any affected person or persons that in the absence of a timely request for a hearing, the determination of the Secretary shall become final and unappealable.

(e) Set forth the time and method for requesting a hearing, and the procedures relating thereto, as set forth in § 500.212.

§ 500.212 Request for hearing.

(a) Any person desiring to request an administrative hearing on a determination referred to in § 500.210 shall make such request in writing to the Administrator of the Wage and Hour

Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, no later than thirty (30) days after the service of the notice referred to in § 500.210

(b) No particular form is prescribed for any request for hearing permitted by this part. However, any such request shall:

(1) Be typewritten or legibly written;

(2) Specify the issue or issues stated in the notice of determination giving rise to such request;

(3) State the specific reason or reasons why the person requesting the hearing believes such determination is in error;

(4) Be signed by the person making the request or by an authorized representative of such person; and

(5) Include the address at which such person or authorized representative desires to receive further communications relating thereto.

(c) The request for such hearing shall be delivered in person or by mail to the Administrator at the above address, within the time set forth in paragraph (a) of this section. For the affected person's protection, if the request is by mail, it should be by certified mail.

(d) Civil money penalties under FLCRA shall be treated as follows:

(1) Determinations to assess civil money penalties for violations of FLCRA made prior to April 14, 1983 shall continue until a final administrative determination shall have been made in accordance with 29 CFR Part 40.

(2) Determinations to assess civil money penalties for violations of FLCRA arising prior to April 14, 1983, made on or after April 14, 1983, shall continue until a final administrative determination shall have been made in accordance with these regulations.

Procedures Relating to Substituted Service

§ 500.215 Change of address.

(a) Pursuant to section 105(1) of the Act, every holder of a Certificate of Registration shall notify the Secretary within thirty (30) days of each change of permanent place of residence.

(b) The notification required in paragraph (a) of this section shall be in writing, by certified mail and addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(c) Such change of address shall be deemed effective upon receipt by the Administrator, unless a later date is specified in the notice.

§ 500.216 Substituted service.

(a) Pursuant to section 102(5) of the Act, the Secretary, when so designated by a court, shall accept service of summons in any action arising under the Act or these regulations against any applicant for or any holder of a certificate of registration who has left the jurisdiction in which such action is commenced or otherwise has become unavailable to accept such service.

(b) Acceptance of service of summons referred to in paragraph (a) of this section shall be under such terms and conditions as are set by the court in its designation of the Secretary for the purpose of section 102(5) of the Act.

(c) To be effective, such service shall be made by delivery personally or by certified mail, either to be Administrator of the Wage and Hour Division in Washington, D.C., or to the Administrator's authorized representative located in the area in which the action has been commenced.

§ 500.217 Responsibility of Secretary for service.

Upon receipt of any substituted service, as described in § 500.216, the same shall be forwarded by certified mail to the permanent address furnished by the person for whom service is accepted. Such mailing shall complete the Secretary's responsibility in connection with the substituted service requirement of the Act.

Rules of Practice; General

§ 500.220 Commencement of proceeding.

Each administrative proceeding permitted under the Act and these regulations shall be commenced upon receipt of a timely request for hearing filed in accordance with § 500.212.

§ 500.221 Designation of record.

Except as provided in paragraph (c) of this section:

(a) Each administrative proceeding instituted under the Act and these regulations shall be identified of record by a number preceded by the year and the letters "MSPA" and followed by one or more of the following designations:

(1) Proceedings involving the "refusal to issue or to renew, or to suspend or to revoke Certificate of Registration" shall be designated as "R".

(2) Proceedings involving the "assessment of civil money penalties" shall be designated as "P".

(3) Proceedings involving both Certificate of Registration and assessment of civil money penalties shall be designated as "R and P".

(b) The number, letter(s), and designation assigned to each such proceeding shall be clearly displayed on each pleading, motion, brief, or other formal document filed and docketed of record.

(c) Each administrative proceeding involving violations of FLCRA prior to April 14, 1983 and filed with the Office of the Chief Administrative Law Judge on or after April 14, 1983, shall be identified of record by a number preceded by the year and the letters "FLCRA-MSPA" and followed by one or more of the letter designations provided in paragraphs (a)(1) through (a)(3) of this section, i.e., (*year*) -FLCRA-MSPA-(#)-(R and/or P).

§ 500.222 Caption of proceeding.

(a) Each administrative proceeding instituted under the Act and these regulations shall be captioned in the name of the person requesting such hearing, and shall be styled as follows:

In The Matter of ——, Defendant.

(b) For the purposes of such administrative proceeding the "Secretary of Labor" shall be identified as plaintiff and the person requesting such hearing shall be named as defendant.

Referral for Hearing

§ 500.223 Referral to Administrative Law Judge.

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § 500.212, the Secretary, by the Associate Solicitor for the Division of Fair Labor Standards or by the Regional Solicitor for the Region in which the action arose, shall, by Order of Reference, promptly refer an authenticated copy of the notice of administrative determination complained of, and the original or a duplicate copy of the request for hearing signed by the person requesting such hearing or by the authorized representative of such person, to the Chief Administrative Law Judge, for a determination in an administrative proceeding as provided herein. The notice of administrative determination and request for hearing shall be filed of record in the Office of the Chief Administrative Law Judge and shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to any amendment as may be permitted under these regulations.

(b) A copy of the Order of Reference, together with a copy of these regulations, shall be served by counsel for the Secretary upon the person requesting the hearing, in the manner provided in § 500.226.

(c) The Chief Administrative Law Judge, upon receipt of the Order of Reference, shall promptly designate an Administrative Law Judge to conduct the proceeding, which shall be in accordance with section 554 of Title 5, United States Code, and these regulations.

§ 500.224 Notice of docketing.

The Chief Administrative Law Judge shall promptly notify the parties of the docketing of each matter.

§ 500.225 Supplemental pleadings.

If, upon review of the notice of administrative determination or the request for a hearing thereon, it appears to either party that such document, as originally drafted, requires supplementation in order to clarify the issues for a hearing thereon, an amended notice of administrative determination may be filed by the Secretary or an amended response thereto may be filed by the respondent, as the case may be. Such supplemental pleading shall be filed with the Chief Administrative Law Judge, with proof of service upon the opposing party, at least ten (10) days prior to the date set for hearing or for a prehearing conference, unless the time for filing such document is extended by the Administrative Law Judge before whom the matter is pending. If an amended notice of administrative determination is filed by the Secretary, the respondent shall be entitled to file with the Chief Administrative Law Judge an amended response in reply within five (5) days after service upon the respondent of such amended notice; but no such amended response is required.

Service of Pleadings and Documents

§ 500.226 Service of documents—manner of service.

(a) *Farm labor contractors, applicants or certificate holders.* Any pleading, notice or other document, required by the Act or these regulations to be filed or served on any farm labor contractor or certificate holders or applicant therefor shall be filed or served either personally or by certified mail to the last known address of such person which shall be the address designated either on such applicant's or holder's most recent application, or on any subsequent communication to the Administrator. Filing or service is complete upon mailing or upon personal service.

(b) *Agricultural employers, agricultural association and parties other than those referred to in paragraph (a) of this section.* Any pleading, notice or other document required by the Act or these regulations to be filed or served on any agricultural employer, agricultural association or any party other than those referred to in paragraph (a) of this section shall be filed or served either personally upon such person or by certified mail to the last known address of such person. Service shall be complete upon receipt by the addressee or his agent or employee.

(c) *General.* (1) When any party is represented by an attorney, service shall be made upon the attorney.

(2) *Additional time for service by mail.* Whenever a party to any proceeding under this part has a right or is required to take any action within a prescribed period after the service of a pleading, notice, or other document upon such party, and service of the pleading, notice, or document is completed by mailing it, five (5) days shall be added to the prescribed period.

§ 500.227 Service upon the Department of Labor—number of copies.

An original and three copies of all pleadings and other documents required for any administrative proceeding provided herein shall be filed with the Department of Labor. The original thereof shall be sent to the Chief Administrative Law Judge, a copy to the Administrative Law Judge assigned to the proceeding, a copy to the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, and a copy to the Attorney representing the Department in the proceeding.

§ 500.228 Proof of service.

The filing of a certificate of service by the person serving the pleading or other document by personal delivery or by mail, setting forth the manner of service, shall be proof thereof.

§ 500.229 Computation of time.

(a) Saturdays, Sundays, and Federal legal holidays shall be included in computing the time allowed for filing any pleading, notice, or document under these regulations, but when the filing time expires on such a day, the period shall be extended to include the next following day which is not a Saturday, Sunday, or a Federal legal holiday.

(b) In computing any period of time prescribed or permitted by these regulations, the day of the act, event, notice, or default from which the designated period of time begins to run shall not be included.

Procedures Before Administrative Law Judge, Generally

§ 500.230 Authority of Administrative Law Judge.

(a) *General powers.* In any proceeding under this part, the Administrative Law Judge shall have all powers necessary to the conduct of fair and impartial hearings, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas upon proper application as provided in § 500.234;

(3) To rule upon offers of proof and receive relevant evidence;

(4) To take or cause to be taken depositions and to determine their scope;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

(6) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) To consider and rule upon procedural requests;

(8) To make and file decisions in conformity with this part;

(9) To take any action authorized by these regulations or the Administrative Procedure Act;

(10) To take any action authorized by the Rules of Civil Procedure for the United States District Courts, issued and from time to time amended pursuant to 28 U.S.C. 2072, as deemed necessary and appropriate, unless otherwise prescribed herein.

(b) *Consultation.* The Administrative Law Judge shall not consult any person or party on any fact in issue without notice and an opportunity for all parties to participate.

(c) *Disqualification.* (1) When an Administrative Law Judge deems himself/herself disqualified to preside in a particular proceeding, such judge shall withdraw therefrom by notice on the record, directed to the Chief Administrative Law Judge. (2) Whenever any party shall deem the Administrative Law Judge disqualified to preside in a particular proceeding, that party shall file with the Chief Administrative Law Judge a motion to disqualify and remove such Administrative Law Judge therefrom. The motion shall be supported by an affidavit setting forth the alleged grounds for disqualification. The Chief Administrative Law Judge shall rule upon the motion, and such ruling shall be final. (3) In the event of disqualification of the Administrative Law Judge as provided in paragraph (c)(1) or (c)(2) of this section, the Chief Administrative Law Judge shall refer the

matter to another Administrative Law Judge for further proceedings.

§ 500.231 Appearances; representation of parties.

The Associate Solicitor, Division of Fair Labor Standards, and other counsel, as designated, shall represent the Secretary in any proceeding under these regulations. Respondents shall have the right to appear by or with counsel of their choice, who shall qualify for such representation as provided in 5 U.S.C. 500(b). If not represented by counsel, respondents may appear in person or through authorized agents and may submit necessary documents with their own signatures.

§ 500.232 Pleadings allowed.

All matters other than the notice of administrative determination and request for a hearing shall be presented by motion.

§ 500.233 Motions and requests.

Motions or requests shall be in writing, filed with the designated Administrative Law Judge, and copies served upon the other parties to the proceedings, except that motions or requests made during the course of any hearing or appearance before the Administrative Law Judge shall be filed with such judge or shall be stated orally and made part of the transcript. Each motion or request shall state the particular order, ruling or action desired and the grounds therefor. The Administrative Law Judge is authorized to rule upon all motions or requests, filed or made prior to the filing of the judge's decision as provided in § 500.261.

§ 500.234 Subpenas.

All applications for subpenas ad testificandum and subpenas duces tecum shall be made in writing to the Administrative Law Judge. Applications for subpenas duces tecum shall be reasonable in scope and shall specify as precisely as possible the documents to be produced and their general relevancy.

§ 500.235 Witnesses and fees.

(a) The Administrative Law Judge, either at the request of the parties or upon the judge's own motion, may request persons to appear and testify as witnesses, where such action is deemed necessary to serve the purposes of the hearing.

(b) Witnesses subpenaed by any party or by the Administrative Law Judge shall be paid the same fees and mileage as are paid for like services in the District Courts of the United States. The witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

§ 500.236 Depositions.

(a) *When, how, and by whom taken.* For good cause shown, the testimony of any witness may be taken orally or upon written questions before any person designated by the Administrative Law Judge and having power to administer oaths.

(b) *Application.* Any party desiring to take the deposition of a witness shall make application in writing to the Chief Administrative Law Judge or the Administrative Law Judge assigned to the case, setting forth the reasons why such deposition should be taken; the time and place it is to be taken; the name and address of the person before whom the deposition is to be taken; the name and address of each witness from whom a deposition is to be taken; and the subject matter concerning which each such witness is expected to testify.

(c) *Notice.* Such notice as the Administrative Law Judge shall order shall be given for the taking of a deposition, but this shall not be less than five (5) days' written notice when the deposition is to be taken within the United States and not less than twenty (20) days' written notice when the deposition is to be taken elsewhere.

(d) *Taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and the adverse party shall have the right to cross examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read by or to, and subscribed by the witness, and certified by the person administering the oath. Thereafter, such officer shall seal the deposition, with two copies thereof, in an envelope and mail the same by certified mail to the Administrative Law Judge. Subject to such objections to the questions and answers as were noted at the time of taking the deposition and which would have been valid if the witness were personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of hearing.

§ 500.237 Prehearing conferences.

(a) Upon motion of either party, or when deemed appropriate by the Administrative Law Judge, the Judge may direct the parties or their authorized representatives to meet with the Judge for a conference to consider:

(1) Simplification or clarification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation of the issues;

(3) Stipulations, admissions of fact, and admissions of contents and authenticity of documents;

(4) Limitation of the number of witnesses, including expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The Administrative Law Judge shall when appropriate issue a prehearing order showing the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such order.

§ 500.238 Consent findings and order.

(a) *General.* At any time after the commencement of a proceeding under this part, but prior to the reception of evidence in any such proceeding, a party may move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be at the discretion of the Administrative Law Judge, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding or any part thereof shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the notice of administrative determination (or amended notice, if one is filed), and the agreement;

(3) A waiver of any further procedural steps before the Administrative Law Judge; and

(4) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their

authorized representatives or their counsel may:

(1) Submit the proposed agreement for consideration by the Administrative Law Judge; or

(2) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed therefor, the Administrative Law Judge, within thirty (30) days thereafter, shall, if satisfied with its form and substance, accept such agreement by issuing a decision based upon the agreed findings.

Hearings

§ 500.250 Hearing procedures generally.

(a) Pursuant to notice given as provided in § 500.224, the designated Administrative Law Judge shall hold such hearings, as provided in this part, as are necessary for determination of the issue or issues submitted for decision, exercising the powers set forth in § 500.230 and conducting the proceeding in accordance with the provisions of 5 U.S.C. 554. Except as may be determined otherwise by the Administrative Law Judge, counsel for the Secretary shall proceed first at the hearing. The hearing shall be open to the public unless otherwise ordered by the Administrative Law Judge.

(b) For good cause shown, the Administrative Law Judge may permit any interested person to intervene at a hearing. A petition to intervene shall be in writing and shall state briefly and with particularity the petitioner's relationship to and interest in the matters involved in the proceedings and the nature of presentation to be made.

(c) If any party requesting a hearing, after being properly served with notice of the hearing, should fail to appear at the hearing, such failure shall constitute a withdrawal of the request for a hearing and the administrative determination at issue shall be affirmed. In such event the Administrative Law Judge shall make such a decision and issue such an order therein. However, a failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the decision and order of the Administrative Law Judge.

(d) Contemptuous conduct at any hearing shall be grounds for exclusion from the hearing.

§ 500.251 Evidence at the hearing.

(a) *In general.* The testimony of witnesses shall be upon oath or affirmation administered by the Administrative Law Judge and shall be subject to such cross-examination as may be required for a full and true disclosure of the facts. The Administrative Law Judge shall exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(b) *Objections.* A party who objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. A formal exception to an adverse ruling is not required.

(c) *Failure or refusal of witness to appear or to answer.* The failure or refusal of a witness to appear at any hearing or to answer any question which has been ruled to be proper shall be grounds for action provided in sections 49 and 50 of Title 15, United States Code, pursuant to the provisions of section 512 of the Act, and, at the discretion of the Administrative Law Judge, for striking out all or part of the testimony which may have been given by such witness.

§ 500.252 Official notice.

Official notice may be taken of any material fact, not appearing in evidence in the record, which is among the traditional matters of judicial notice or which concerns matters as to which the Department, by reason of its functions, is presumed to be expert: Provided, That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary.

§ 500.253 Transcripts.

Hearings shall be stenographically reported.

Post-Hearing Procedures

§ 500.261 Proposal by the parties.

At the conclusion of the hearing, the Administrative Law Judge shall, upon request, afford any party a reasonable opportunity, not less than fifteen (15) days, to file with such Judge proposed findings of fact, conclusions of law, and a proposed order together with a supporting brief. There may be included statements of the reasons for any such proposed findings of fact, conclusions of law, and the proposed order, including a reference to the portions of the record and to the authorities relied upon in support of each proposal. Such proposals shall be accompanied by a certification that service of the proposals has been made upon all other parties.

§ 500.262 Decision and Order of Administrative Law Judge.

(a) The Administrative Law Judge shall prepare, as promptly as practicable after the expiration of the time set for filing proposed findings and related papers provided for in § 500.261, a decision on the issues referred by the Secretary.

(b) The decision of the Administrative Law Judge shall be limited to a determination whether the respondent has violated the Act or these regulations, and the appropriateness of the remedy or remedies imposed by the Secretary. The Administrative Law Judge shall not render determinations on the legality of a regulatory provision or the constitutionality of a statutory provision.

(c) The decision of the Administrative Law Judge shall include a statement of findings and conclusions, with reasons and basis therefor, upon each material issue presented on the record. The decision shall also include an appropriate order which may be to affirm, deny, reverse, or modify, in whole or in part, the determination of the Secretary. The reason or reasons for such order shall be stated in the decision.

(d) The Administrative Law Judge shall transmit to the Chief Administrative Law Judge the entire record including the decision. The Chief Administrative Law Judge shall serve copies of the decision on each of the parties.

(e) The decision when served shall constitute the final order of the Secretary unless the Secretary, pursuant to section 103(b)(2) or section 503(b)(2) of the Act, modifies or vacates the decision and order of the Administrative Law Judge.

(f) Except as provided in §§ 500.263 through 500.268, the administrative remedies available to the parties under the Act will be exhausted upon service of the decision of the Administrative Law Judge.

Modification or Vacation of Order of Administrative Law Judge

§ 500.263 Authority of the Secretary.

Whenever the Secretary believes that the Decision and Order of the Administrative Law Judge is inconsistent with a policy or precedent established by the Department of Labor, or whenever the Secretary believes that a Decision and Order encompasses determinations not within the scope of the authority of the Administrative Law Judge, he may modify or vacate such Decision and Order, pursuant to the

authority contained in section 103(b)(2) or section 503(b)(2) of the Act.

§ 500.264 Implementation by the Secretary.

(a) The Secretary shall implement this authority by the issuance of a Notice of Intent to Modify or Vacate the Decision and Order in question.

(b) The Notice of Intent shall be issued within thirty (30) days after the Decision and Order in question.

(c) Service of the Notice of Intent shall be made upon each party to the proceeding pursuant to § 500.226 hereof, and upon the Chief Administrative Law Judge.

§ 500.265 Responsibility of the Office of Administrative Law Judges.

Upon receipt of the Secretary's Notice of Intent to Modify or Vacate a Decision and Order of an Administrative Law Judge the Chief Administrative Law Judge shall, within fifteen (15) days, index, certify and forward a copy of the complete hearing record to the Secretary.

§ 500.266 Additional information, if required.

Where the Secretary issues a Notice of Intent to Modify or Vacate such Decision and Order, the Secretary shall, after review of the hearing record, notify each party of:

(a) The issue or issues raised;

(b) The form in which submission shall be made (i.e., briefs, oral argument, etc.); and the time within which such presentation shall be submitted.

§ 500.267 Final decision of the Secretary.

(a) The Secretary's final decision shall be issued and forwarded to the Chief Administrative Law Judge for service upon the parties to such proceeding. Such service shall be made in accordance with paragraph (b) of this section.

(b) Upon receipt of an Order of the Secretary modifying or vacating the Decision and Order of an Administrative Law Judge, the Chief Administrative Law Judge shall substitute such Order for the Decision and Order of the Administrative Law Judge and serve same upon each party to the proceeding.

§ 500.268 Stay pending decision of the Secretary.

In the event a respondent has filed a notice of appeal of the Administrative Law Judge's Decision and Order in a United States District Court prior to receipt of the Secretary's Notice of Intent the Secretary shall seek a stay of proceedings in such United States District Court.

Record

§ 500.270 Retention of official record.

The official record of every completed administrative hearing provided by these regulations shall be maintained and filed under the custody and control of the Chief Administrative Law Judge.

§ 500.271 Certification of official record.

Upon receipt of timely notice of appeal to a United States District Court pursuant to section 103(c) or 503(c) of the Act, the Chief Administrative Law Judge shall promptly certify and file with the appropriate United States District Court, a full, true, and correct copy of the entire record, including the transcript of proceedings.

Appendix

Editorial Note.—The Department hereby presents forms which satisfy certain disclosure and recordkeeping aspects of the Act and the regulations. These forms, however, will not appear in the Code of Federal Regulations.

Appendix A—Migrant and Seasonal Agricultural Worker Protection Act Poster, WH–1376.

Appendix B—Worker Information, WH–516.

Appendix C—Housing Terms and Conditions, WH–521.

Appendix D—Wage Statement, WH–501 (English, Spanish).

BILLING CODE 4510-27-M

APPENDIX A

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

This federal law requires agricultural employers, agricultural associations, farm labor contractors and their employees to observe certain labor standards when employing migrant and seasonal farmworkers unless specific exemptions apply. Further, farm labor contractors are required to register with the U.S. Department of Labor.

MIGRANTS AND SEASONAL FARMWORKERS HAVE THESE RIGHTS

--To receive accurate information about the prospective employment
--To receive this information in writing and in English, Spanish, or other languages, as appropriate
--To have the terms of the working arrangement upheld
--To have farm labor contractors show proof of registration at the time of recruitment
--To be paid wages when due
--To receive itemized, written statements of earnings for each pay period
--To purchase goods from the source of their choice
--To be transported in vehicles which are properly insured and operated by licensed drivers, and which meet federal and state safety standards
--For migrant farmworkers who are provided housing
*To be housed in property which meets federal and state safety and health standards
*To have the housing information presented to them in writing at the time of recruitment
*To have posted in a conspicuous place at the housing site or presented to them a statement of the terms and conditions of occupancy, if any

Workers who believe their rights under the act have been violated may file complaints with the department's Wage and Hour Division or may file suit directly in federal district court. The law prohibits employers from discriminating against workers who file complaints, testify or in any way exercise their rights on their own behalf or on behalf of others. Complaints of such discrimination must be filed with the division within 180 days of the alleged event.

For further information, get in touch with the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

The law requires employers to display this poster where employees can readily see it.

LEY DE PROTECCION DE TRABAJADORES MIGRANTES Y TEMPORALES EN LA AGRICULTURA

Esta ley federal exige que los patrones agrícolas, las asociaciones agrícolas, los contratistas de mano de obra agrícola (o troqueros), y sus empleados cumplan con ciertas normas laborales cuando ocupan a los trabajadores migrantes y temporales en la agricultura, a menos que se apliquen excepciones específicas. Los contratistas, o troqueros, tienen además la obligación de registrarse con el Departamento del Trabajo.

LOS TRABAJADORES MIGRANTES Y TEMPORALES EN LA AGRICULTURA TIENEN LOS DERECHOS SIGUIENTES

--Conocer los detalles exactos del empleo futuro
--Recibir estos datos por escrito en inglés, en español, o en otro idioma que sea apropiado
--Cumplimiento de todas las condiciones de trabajo como fueron presentadas cuando se les hizo la oferta de trabajo
--Al ser reclutados para un trabajo, ver una prueba de que el contratista se haya registrado con el Departamento del Trabajo
--Cobrar el salario en la fecha fijada
--Recibir cada día de pago un recibo indicando el salario y la razón de cualquier deducción
--Comprar mercancías al comerciante que ellos escojan
--Ser transportados en vehículos que tengan seguros adecuados y que hayan pasado las inspecciones federales y estatales de seguridad, y conducidos por choferes que tengan permisos de manejar
--Las garantías para los trabajadores migrantes a quienes se les proporcionen viviendas o alojamiento
*Viviendas que satisfazcan los requisitos federales y estatales de seguridad y de sanidad
*Al ser reclutados, recibir por escrito informes sobre las viviendas y su costo
*Al ser reclutados, recibir de su patrón un aviso escrito explicando las condiciones de ocupación de la vivienda, y que tal aviso esté también colocado en un lugar visible de la vivienda

Los trabajadores que crean haber sufrido una violación de sus derechos pueden presentar sus quejas a la División de Salarios y Horas o pueden presentar una demanda directamente a los tribunales federales. La ley prohibe cualquier discriminación o sanción hacia los trabajadores que presenten tales quejas, que hagan declaraciones, o que reclamen de cualquier manera sus derechos, sea a beneficio de sí mismos o a beneficio de otros. Hay que presentar las quejas de discriminación o de sanción a la división dentro de 180 días del suceso.

En caso de que se necesite más información, comuníquense con la oficina de la División de Salarios y Horas más cercana, que aparece en la mayoría de los directorios telefónicos bajo el título U.S. Government, Department of Labor.

Departamento del Trabajo de los EE.UU.
Administración de Normas de Empleo
División de Salarios y Horas

La ley exige que los patrones fijen este aviso en un lugar donde puedan verlo fácilmente los trabajadores.

APPENDIX B

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

WORKER INFORMATION

1. Place of employment

2. Period of employment

   From _____ To _____

3. Wage rates to be paid

   Hourly $ _____

   Piece rate $ _____ per _____

4. Crops and kinds of activities

5. Transportation and other benefits, if any

   Transportation _____ charges _____

   Unemployment compensation insurance provided ☐ Yes ☐ No
   Worker's compensation insurance provided ☐ Yes ☐ No

   Other benefits _____ charges _____

6. For migrant workers who will be housed, the kind of housing available and cost, if any

   _____ charges _____

7. List any strike, work stoppage, slowdown, or interruption of operation by employees at the place where the workers will be employed (If there are no strikes, etc., enter "None")

8. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to the workers (if there are no such arrangements, enter "None")

Name of person providing this information

The Migrant and Seasonal Agricultural Worker Protection Act requires the disclosure in writing of the foregoing information to migrant and day-haul workers upon recruitment, and to seasonal workers other than day-haul workers upon request when an offer of employment is made. This optional form may be used to provide the required information.

Thereafter, any migrant or seasonal worker has the right to have, upon request, a written statement provided to him by his employer of the information described above. The optional form may also be used for this second requirement.

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Form WH-516 (Apr. 1983)

LA LEY DE PROTECCION DE TRABAJADORES MIGRANTES Y TEMPORALES EN LA AGRICULTURA

INFORMACION PARA LOS TRABAJADORES

1. Lugar de empleo

2. Período de empleo

   Desde el _____ Hasta el _____

3. Base de pago

   Por hora $ _____

   Por contrato $ _____ por _____

4. Clases de cultivos y de trabajo

5. Transportación y cualquier beneficio adicional que sea proporcionado

   Transportación _____

   Costo al trabajador _____

   Beneficios adicionales _____

   Costo al trabajador _____

   Se provee seguro de trabajo bajo la ley de impuestos de desempleo.
   ☐ sí ☐ no
   Se provee seguro de compensación de trabajo. ☐ sí ☐ no

6. Para los trabajadores a quienes se les proporcionen viviendas, la clase de viviendas y cualquier costa

   _____ Costo al _____

   _____ trabajador _____

7. Indique si hay una huelga, un paro de trabajo, una huelga intermitente, o una interrupción del trabajo efectuada por trabajadores en el lugar donde van a trabajar (si no hay ninguna huelga, etc., escriba "Ninguna")

8. Indique si el patrón tiene acuerdos con comerciantes o agentes de los cuales recibe una comisión u otro beneficio por las compras que los trabajadores hagan (si no existe tal acuerdo, escriba "Ninguno")

Nombre de la persona que proporciona esta información

La Ley Protección de Trabajadores Migrantes y Temporales en la Agricultura exige que reciban estos datos por escrito al ser reclutados los trabajadores migrantes y los que se reúnen diariamente en algún lugar para ser reclutados, ocupados, y transportados al lugar de empleo. La ley también les concede a los trabajadores temporales el derecho de pedir esta información cuando se les haga una oferta de trabajo. El patrón puede utilizar esta forma para proporcionar los informes necesarios.

De ahí en adelante los trabajadores migrantes y temporales tienen derecho de pedirle a su patrón que les dé una declaración escrita persentando todos los datos a los cuales se refiere más arriba. El patrón puede utilizar esta forma también para este segundo propósito.

Departamento del Trabajo de los EE. UU.
Administración de Normas de Empleo
División de Salarios y Horas

APPENDIX C

HOUSING TERMS AND CONDITIONS

Important Notice to Migrant Agricultural Worker: The Migrant and Seasonal Agricultural Worker Protection Act requires the furnishing of the following information.

1. This housing is provided by

   Name _____

   Address _____

   _____

2. Individual(s) in charge

   Name _____

   Address _____

   _____

   Phone _____

3. Mailing address of housing facility

   Address _____

   _____
   City & state/Zip code

   Phone _____

4. Conditions of occupancy

Who may live in housing facility
Charges made for housing (if none, so state)
Meals provided (if none, so state)
Charges for utilities (if none, so state)
Other charges, if any
Other conditions of occupancy

Important Notice to Farm Labor Contractor, Agricultural Employer, or Agricultural Association:

This form may be used for the disclosure required by section 201(c) of the act. It must be posted in a conspicuous place or presented to each worker in English, Spanish, or another language, as appropriate.

CONDICIONES DE OCUPACION DE LA VIVIENDA

Aviso Importante Para el Trabajador Migrante en la Agricultura: La Ley de Protección de Trabajadores Migrantes y Temporales en la Agricultura exige que Ud. conozca los informes siguientes.

1. Dueño de la vivienda (casa, apartamento, etc.)

   Nombre _____

   Dirección _____

   _____

2. Persona encargada de la vivienda

   Nombre _____

   Dirección _____

   _____

   Teléfono _____

3. Dirección de la vivienda

   Número y calle _____

   _____
   Ciudad y estado/número ZIP

   Teléfono _____

4. Condiciones de ocupación

Personas que pueden ocupar la vivienda
Renta por semana: $____ por mes: $____(si no se cobra, escriba "Ningún costo al trabajador")
Comida (si no proporciona comida, escriba "Ninguna comida")
Costo de la comida (si no hay, escriba "Ningún costo al trabajador")
Costo de la luz, el agua, el gas, etc. (si no hay, escriba "Ningún costo al trabajador)
Cualquier otro costo
Otras condiciones de ocupación

Aviso Importante Para el Contratista de Mano de Obra Agrícola (el Troquero), el Patrón, o la Asociación Agrícola:

Puede utilizar esta forma para darles a los trabajadores migrantes los informes que exige la sección 201(c) de la ley. Tiene que exhibirlo en un lugar donde puedan verlo fácilmente los trabajadores o presentarle una copia a cada trabajador, y tiene que usar el inglés, el español, u otro idioma que sea apropiado.

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Departamento del Trabajo de los EE. UU.
Administración de Normas de Empleo
División de Salarios y Horas

Form WH-521 (Apr. 1983)

Employee _____ Social Security No. _____

Address _____

Workweek Ending (Month, day, year)

Day/Date	Sun/	Mon/	Tues/	Wed/	Thurs/	Fri/	Sat/	Total Hours Worked in Week	Itemized Deductions	
Starting Time									FICA	
Quitting Time									Federal Tax	
Hours Worked									State Tax	
Crop/Task Units Done									Rent	
									Food	
								Total Gross Pay	Transportation	
Rate of Pay (Hourly or Piece Rate)									Other	
Daily Pay									Other	
									Total Deductions	
									Net Pay (Amount Due Employee)	Date Paid:

Employer _____

Address _____

Social Security Employer I.D. No. _____

Note: Properly filled out, this form will satisfy the requirements of sections 201(d) (2) and 301(c) (2) of the Migrant and Seasonal Agricultural Worker Protection Act. The act requires farm labor contractors, agricultural employers and agricultural associations to make, keep and preserve records for three years of the above information. Each worker must be given an itemized statement of this information covering each pay period. This is an optional form which may be used to comply with the Act.

Instructions are on the reverse.

Form WH-501 (April 1983)

INSTRUCTIONS

IDENTIFYING INFORMATION: Employee —Enter employee's full name and social security number. Address — Enter employee's permanent address. Employer and Address — Enter name of the employer making the payment and the permanent address of the employer. The employer may preprint his name and address.

PAYROLL INFORMATION: Workweek Ending — Enter the month, day and year on which the employee's payroll workweek ends. Day/Date — Enter the calendar date of the day worked. Starting Time — Quitting Time — Enter the time work started and ended each day. Hours Worked —Enter the total time actually worked each day. Subtract bona fide meal periods. Crop/Task — Units Done — Enter the kind of work (such as picking oranges per bin). Enter the number of units produced if the employee is paid on a piece work or task basis. Rate of Pay — Enter the hourly or piece rate of pay. Daily Pay — Enter the amount of the daily pay computed at the hourly and/or piece rate.

WEEKLY TOTALS: Total Hours Worked in Week — Total the daily hours worked and enter the total. Total Gross Pay — Total the daily pay and enter the total.

ITEMIZED DEDUCTIONS: FICA (Social Security) — Enter amount withheld. Federal Tax — Enter the amount of Federal tax withheld. State tax withheld. Rent, Food, Transportation and Other — Enter deductions, if made, for each. Identify the purpose of "other" deductions. Total Deductions — Enter total deductions in right column and then transfer to left. Subtract total deductions from Total Gross Pay — Enter the result as Net Pay (Amount Due Employee). Enter date worker is paid.

APPENDIX D (Spanish)

Trabajador _____ Número del Seguro Social _____

Dirección _____

Fin de la semana trabajada (mes, día, año)

Día/fecha	domingo/	lunes/	martes/	miércoles/	jueves/	viernes/	sábado/	Total de horas trabajadas en la semana	Deducciones	
Hora de comenzar									Impuesto del Seguro Social	
Hora de terminar									Impuesto federal	
Horas trabajadas									Impuesto estatal	
Cultivo/trabajo Unidades terminadas									Renta	
									Comida	
									Transportación	
Base de pago (por hora o por contrato)								Salario bruto	Otra deducción	
Salario diario									Otra deducción	
									Total de deducciones	
									Salario neto (Cantidad debida al trabajador)	Día de pago

Patrón _____

Dirección _____

Número de identidad del patrón para el Seguro Social _____

Aviso: Al llenar correctamente esta forma, el patrón satisface los requisitos de las secciones 201(d) (2) y 301(c) (2) de la Ley de Protección de Trabajadores Migrantes y Temporales en la Agricultura. Esta ley exige que los contratistas de mano de obra agrícola (los troqueros), los patrones agrícolas, y las asociaciones agrícolas lleven libros o cuentas que contengan los datos citados anteriormente, y que los preserven por tres años. Cada día de pago el patrón tiene que darles a los trabajadores un recibo que indique el método de determinar el salario y la razón de cualquier deducción. Se puede utilizar esta forma para cumplir con la ley.

Instrucciones: Véase al dorso.

WH-501a

INSTRUCCIONES

IDENTIDAD: Trabajador y su dirección — Anote el nombre y apellido del trabajador, su número de Seguro Social, y su domicilio permanente. Patrón y su dirección — Anote el nombre del patrón quien les paga a los trabajadores, su domicilio permanente, y su número de identidad para el Seguro Social. El patrón puede imprimir por anticipado su nombre, su dirección, y su número de identidad.

REMUNERACION DEL TRABAJADOR: Fin de la semana trabajada — Anote el mes, el día, y el año en que termina la semana de trabajo. Día/fecha — Anote la fecha del día de trabajo. Hora de comenzar y hora de terminar — Para cada día, anote la hora de comenzar el trabajo y la hora de terminarlo. Horas trabajadas — Anote el total de horas trabajadas cada día. Puede excluir el tiempo verdaderamente concedido para las comidas. Cultivo/trabajo y unidades terminadas —Anote la clase de trabajo (por ejemplo, el piscar naranjas en canastas, cajas, etc.). Si le paga por contrato al trabajador, anote el número de unidades de trabajo terminadas. Base de pago — Anote el salario por hora o por contrato. Salario diario — Anote el salario diario que se calcula a base del salario por hora, del salario por contrato, o de ambos.

TOTALES PARA LA SEMANA: Total de horas trabajadas en la semana — Sume las horas trabajadas cada día y anote el total. Salario bruto — Sume los salario diarios y anote el total.

DEDUCCIONES: Impuesto del Seguro Social — Anote la cantidad deducida. Impuesto federal — Anote la cantidad deducida. Impuesto estatal — Anote la cantidad deducida. Renta, comida, transportación, y otra deducción — Anote cualquier deducción de estas categorías. Identifique la clase de la "otra deducción." Total de deducciones — Anote el total de deducciones en la columna de la derecha y luego en la columna de la izquierda. Reste el total de las deducciones al salario bruto, y anote el resto como el salario neto. Anote la fecha en que se lo paga al trabajador como el día de pago.

[FR Doc. 83-9083 Filed 4-11-83; 8:45 am]
BILLING CODE 4510-27-C

federal register

Tuesday
April 12, 1983

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 6, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS — VOLUME 865
ISSUED APRIL 6, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ROBERT F WHITE				RECEIVED:	01/16/81	JA: KS			
8151047	K-78-0390	1505500000		108		GRUB UNIT #1	HUGOTON GAS FIELD	12.0	NORTHERN NATURAL
MISSISSIPPI OIL & GAS BOARD									
-KERN & BROOKS OIL OPERATIONS INC				RECEIVED:	03/10/83	JA: MS			
8327204	121-82-17	2306320353		102-2	103	HARRELL-SMITH #1-11	FAYETTE	480.0	LOCUST RIDGE GAS
-PRUET PRODUCTION CO				RECEIVED:	03/10/83	JA: MS			
8327213	79-82-128	2312720073		102-4	103	KEYES 1-6 #1	MAGEE	127.0	UNITED GAS PIPE L
8327214	71-82-128	2312720055		102-4	103	VYRON HOMACK 1-3 WELL #1	MAGEE	36.5	UNITED GAS PIPE L
-ROBERT W REA JR				RECEIVED:	03/10/83	JA: MS			
8327207	114-82-34	2306100000		108		WILSON #1	SHARON	20.5	TRANSCONTINENTAL
-SHELL OIL CO				RECEIVED:	03/10/83	JA: MS			
8327201	108-82-533	2311320130		102-4		HUTTO #3	OLIVE	40.0	
8327205	119-82-533	2311320127		102-4		HUTTO #4	OLIVE	40.0	
8327216	116-82-533	2311320128		102-4		HUTTO #5	OLIVE	40.0	
8327206	118-82-533	2311320132		102-4		PATTERSON #2	OLIVE	40.0	
8327202	107-82-533	2311320126		102-4		PATTERSON #3	OLIVE	40.0	
8327200	109-82-533	2311320134		102-4		PATTERSON #4	OLIVE	40.0	
8327208	115-82-533	2311320139		102-4		PATTERSON #5	OLIVE	40.0	
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	03/10/83	JA: MS			
8327203	105-82-467	2309120102		107-DP		MORGAN HEIRS UNIT #1	EAST MORGANTOWN	0.0	TENNESSEE GAS PIP
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED:	03/10/83	JA: MS			
8327215	56-82-372	2312720077		102-2	103	GUY BERRY 36-5 WELL #1	OAK GROVE	0.0	SYSTEM FUELS INC
8327199	85-82-372	2312720080		102-2	103	JAMES TERRY 25-13 #1	OAK GROVE	0.0	SYSTEM FUELS INC
-UNION OIL COMPANY OF CALIF				RECEIVED:	03/10/83	JA: MS			
8327212	110-82-515	2314920012		102-2	103	BILLY R BROWN 20-11 #1	OAK RIDGE	1148.0	
8327211	111-82-515	2314920017		102-2	103	FERRIS FARMS 19-7 #1	OAK RIDGE	693.0	
8327210	112-82-515	2314920023		102-2	103	FRIED ABRAHAM 30-7 #1	OAK RIDGE	91.0	
8327209	113-82-515	2314920014		102-2	103	J S TERRY 17-10 #1	OAK RIDGE	750.0	
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALLEN M ANDERSON				RECEIVED:	03/08/83	JA: OH			
8326947		3416727013		103		A L LAMP #1	WARREN	10.0	
8326948		3416737301		103		DENNIS HOLAND #1	WARREN	0.0	
-ALTHEIRS OIL INC				RECEIVED:	03/08/83	JA: OH			
8326949		3412724617		107-TF		ALTHEIRS #7	SALT LICK TOWNSHIP	5.0	NICOFIBERS INC
-ATLAS ENERGY GROUP INC				RECEIVED:	03/08/83	JA: OH			
8326950		3413322341		107-TF		E EVERITT #1	DEERFIELD	11.0	EAST OHIO GAS CO
8326951		3413322362		107-TF		FOLK #1	ATWATER	18.0	EAST OHIO GAS CO
8326952		3415521619		102-2	107-TF	J MILLER #1	BROOKFIELD	0.0	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC				RECEIVED:	03/08/83	JA: OH			
8326953		3415723783		103	107-TF	STRINGER-BEACH #1	NEW PHILADELPHIA	36.0	EAST OHIO GAS CO
-B-J INC				RECEIVED:	03/08/83	JA: OH			
8326958		3408924432	D	103	107-TF	G E WILLEY #1	HICKMAN	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8326959		3408924433	D	103	107-TF	G E WILLEY #2	FALLSBURG	0.0	COLUMBIA GAS TRAN
8326960		3408924434	D	103	107-TF	G E WILLEY #3	FALLSBURY	18.0	COLUMBIA GAS TRAN
8326961		3408924435	D	103	107-TF	G E WILLEY #4	FALLSBURY	18.0	COLUMBIA GAS TRAN
-BELDEN & BLAKE & CO 80				RECEIVED:	03/08/83	JA: OH			
8326955		3416120167		103		JESSIE W BOWERS - 5-341260	UNION	36.5	
8326954		3416120140		103		D D KNERR #5 - 34-1232	UNION	36.5	
-BERMAN J SHAFER				RECEIVED:	03/08/83	JA: OH			
8326956		3416923341		103		NOVA-HERSHBERGER #2	EAST UNION	7.5	COLUMBIA GAS TRAN
-BILL BLAIR INCORPORATED				RECEIVED:	03/08/83	JA: OH			
8326957		3402920751		107-RT		LEE #1	HOMEWORTH	6.0	COLUMBIA GAS TRAN
-BLACK RUN DEVELOPMENT CO				RECEIVED:	03/08/83	JA: OH			
8326962		3411926469		107-TF		TYSON-KING #1	LICKING	7.3	NATIONAL GAS & OI
-CA D' ORA INC				RECEIVED:	03/08/83	JA: OH			
8326963		3416727393		103		H LANGILL #1	WATERFORD	8.8	
-CALLANDER & KIMBREL INC				RECEIVED:	03/08/83	JA: OH			
8326964		3403124510		107-TF		BOWERS #1	COPPERSDALE	5.0	
-CENTRAL ENERGY CO INC				RECEIVED:	03/08/83	JA: OH			
8326965		3408924572		103		WEEKLEY #1	SOUTH NEWARK	2.0	NATIONAL GAS & OI
-CLINTON OIL CO				RECEIVED:	03/08/83	JA: OH			
8327013		3415723804		103	107-TF	HOLMES LIMESTONE CO #2-758	MILL	18.0	
8327012		3411926058		103	107-TF	WILLIAM LAKE #1-679	HIGHLAND	18.0	
-DAVID SHAFER OIL PRODUCERS INC				RECEIVED:	03/08/83	JA: OH			
8326967		3415321313		103		SCHNAGER #1	RICHFIELD	7.5	EAST OHIO GAS CO
8326966		3415321303		103		STONER LAND CO UNIT #2	BATH	7.5	EAST OHIO GAS CO
-DERBY OIL & GAS CORP				RECEIVED:	03/08/83	JA: OH			
8326968		3412725513		103		SPROAT #2	JACKSON	12.0	FORAKER GAS CO
-DISCOVERY OIL LTD				RECEIVED:	03/08/83	JA: OH			
8326969		3410323195		107-TF		DONALD M MOOE #1	LODI	20.0	
-EDUARD H EVERETT CO				RECEIVED:	03/08/83	JA: OH			
8327014		3411926309	D	107-TF		E HOLT/P MORAN #1	JACKSON	18.3	NATIONAL GAS & OI
-ENERGEX OIL & GAS CORP				RECEIVED:	03/08/83	JA: OH			
8326979		3416328525		103	107-TF	RHEINSCHELD #1	SWAN TOWNSHIP	75.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED:	03/08/83	JA: OH		20.0	COLUMBIA GAS TRAN
8326980		3415123297		108		MALAVITE WELL #1	MANTUA	0.0	YANKEE RESOURCES
-GILBERT OIL CO				RECEIVED:	03/08/83	JA: OH			
8326981		3413322929		103	107-TF	STAMI #1	FULTONHAM	0.0	COLUMBIA GAS TRAN
-GREENLAND PARTNERSHIP 82-1				RECEIVED:	03/08/83	JA: OH			
8326983		3412725614		107-TF		CONN #2	RICH HILL	7.5	COLUMBIA GAS TRAN
-GREENLAND 1980-1				RECEIVED:	03/08/83	JA: OH			
8326982		3411925557		107-TF		IRWIN #2	GRANDVIEW DISTRICT	15.0	COLUMBIA GAS TRAN
-HAUGHT INC				RECEIVED:	03/08/83	JA: OH	GRANDVIEW DISTRICT	15.0	COLUMBIA GAS TRAN
8326984B		3416724899	D	107-TF		CHARLES E BERGA #1			
8326984A		3416724899		103		CHARLES E BERGA #1	BEDFORD	1.0	COLUMBIA GAS TRAN
-KRAMER EXPLORATION CO				RECEIVED:	03/08/83	JA: OH	BEDFORD	1.0	COLUMBIA GAS TRAN
8326985		3410521902		107-TF		CARPER #1			
8326986		3410521938		107-TF		CARPER #3	MONDAY CREEK	10.0	
-L & M PETROLEUM INC				RECEIVED:	03/08/83	JA: OH			
8326994		3412725719		103		INES BELL #1	BLOOMFIELD	20.0	
-LANDPROVEST INC				RECEIVED:	03/08/83	JA: OH			
8326987		3405923402		107-TF		BENDER #1A-	BUTLER	45.0	COLUMBIA GAS TRAN
-LANGASCO DRILLING CO				RECEIVED:	03/08/83	JA: OH			
8326988		3402920927		107-TF		RUSSELL KIKO #2	EDEN	50.0	
-LBJ DRILLING DBA JEFF MORAN				RECEIVED:	03/08/83	JA: OH			
8326989		3408924521		103		INA V KLINGLER #1	KIRTLAND	28.6	
-LEONARD SKEGGS				RECEIVED:	03/08/83	JA: OH	KIRTLAND	28.6	
8326990A		3408520228		103		LOCUST FARMS #1	KIRTLAND	22.4	
8326990B		3408520228	D	107-RT		LOCUST FARMS #1	KIRTLAND	22.4	
8326991A		3408520249		103		LOCUST FARMS #2	KIRTLAND	57.7	
8326991B		3408520249	D	107-RT		LOCUST FARMS #2	KIRTLAND	57.7	
8326992B		3408520251	D	107-RT		LOCUST FARMS #3	KIRTLAND	31.2	
8326992A		3408520251		103		LOCUST FARMS #3	KIRTLAND	31.2	
8326993B		3408520283	D	107-RT		LOCUST FARMS #4	PERRY	24.0	
8326993A		3408520283		103		LOCUST FARMS #4			
-LOMAK PETROLEUM INC				RECEIVED:	03/08/83	JA: OH	MADISON	7.0	NATIONAL GAS & OI
8326995		3401921522		107-TF		J SCOTT #1	FRANKLIN	3.5	NATIONAL GAS & OI
-MCCLAIN OIL CO				RECEIVED:	03/08/83	JA: OH			
8326997		3408924615		103		COYLE #1	HOPEWELL	15.0	NATIONAL GAS & OI
8326996		3408924682		103		PARROTT #1	MADISON	15.0	NATIONAL GAS & OI
-MERIDIAN DRILLING & EQUIPMENT INC				RECEIVED:	03/08/83	JA: OH			
8326999		3412725775		103		MERIDIAN-COOPERIDER #1	WASHINGTON	18.0	YANKEE RESOURCES
8326998		3408924522		103		MERIDIAN-SHAW #1	WASHINGTON	18.0	YANKEE RESOURCES
-NEW FRONTIER EXPLORATION INC				RECEIVED:	03/08/83	JA: OH	SHARON	20.0	YANKEE RESOURCES
8327002		3415123796		103	107-TF	DONALD ROHR #5			
8327001		3415123625		103	107-TF	FREED-HAIDET UNIT #1	HARTFORD	20.0	COLUMBIA GAS TRAN
8327000		3412122910		103	107-TF	MURL PICKENPAUGH #1			
-OHIO OIL & GAS CO				RECEIVED:	03/08/83	JA: OH	THORN	10.0	
8327003		3415522219		107-TF		CONSUMER #10			
-OXFORD OIL CO				RECEIVED:	03/08/83	JA: OH		0.0	COLUMBIA GAS TRAN
8327015		3412725739		103		WILLIAM BASHORE #1		0.0	COLUMBIA GAS TRAN
-RELIANCE ENERGY				RECEIVED:	03/08/83	JA: OH		0.0	COLUMBIA GAS TRAN
8326973		3408322343		108		CHARLES ELLIOTT #1		0.0	COLUMBIA GAS TRAN
8326975		3408322417		108		CHARLES ELLIOTT #2		0.0	COLUMBIA GAS TRAN
8326976		3408322542		108		CHARLES ELLIOTT #3		0.0	COLUMBIA GAS TRAN
8326977		3408322544		108		CHARLES ELLIOTT #4	CENTER	1.2	REDMAN INDUSTRIAL
8326978		3408322548		108		CHARLES ELLIOTT #5		0.0	COLUMBIA GAS TRAN
8326972		3411522293		103		EARNEST & ALICE BARNHART #1		0.0	COLUMBIA GAS TRAN
8326970		3408322209		108		GERALD EIAMA #1		0.0	COLUMBIA GAS TRAN
8326971		3408322214		108		GERALD EIAMA #2			
8326974		3408322362		108		GERALD EIAMA #3			
-RESERVE EXPLORATION CO				RECEIVED:	03/08/83	JA: OH	MACKSBURG	100.0	FREDRICK PETROLEU
8327004		3416727299		107-TF		LUCIAN SMITH #1			
-RICHARD W ULLMAN				RECEIVED:	03/08/83	JA: OH	CHESTERHILL	21.0	COLUMBIA GAS TRAN
8327006		3411523050		107-TF		COOK #4	CHESTERHILL	18.0	COLUMBIA GAS TRAN
8327005		3411523038		107-TF		COOK #5			
-ROVI RESOURCES CORP				RECEIVED:	03/08/83	JA: OH	MORGAN	11.0	TENNESSEE GAS PIP
8327007		3411521800		107-RT		KNOX #1	MORGAN	11.0	TENNESSEE GAS PIP
8327008		3411521811		107-RT		NEEDHAM #1	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8327010		3411924581		107-RT		OHIO POWER 36	BLOOM	11.0	COLUMBIA GAS TRAN
8327009		3411522949		107-RT		RICHARDSON #2			
-S S S ENERGY CO				RECEIVED:	03/08/83	JA: OH	WADSWORTH	0.0	
8327011		3410322692		103	107-TF	STATON/STEPFIELD #1			
-TOWNER PETROLEUM CO				RECEIVED:	03/08/83	JA: OH			
8327018		3405923397		103	107-TF	BOND C #2	LONDONDERRY	27.0	TENNESSEE GAS PIP
8327016		3405923333		103	107-TF	GRAY R /BRUBAKER R #1	LONDONDERRY	27.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8327019		3405923427		103	107-TF	GUNN R #2	JEFFERSON	27.0	TENNESSEE GAS PIP
8327017		3405923355		103	107-TF	LAURENCE P #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
-TRUMBULL RESOURCES				RECEIVED:	03/08/83	JA: OH			
8327020		3415522270		103	107-TF	SIMON #4	VIENNA	39.0	
8327021		3415522271		103	107-TF	SIMON #5	VIENNA	39.0	
-WAYNE W WATSON				RECEIVED:	03/08/83	JA: OH			
8327022		3412725621		107-TF		REAM #6	MONDAY CREEK	0.0	COLUMBIA GAS TRAN
-WILLIAM H TIPKA				RECEIVED:	03/08/83	JA: OH			
8327024		3410323116		107-TF		MILLER-CHURCH-BARNES #1	WADSWORTH	12.0	EAST OHIO GAS CO
8327023		3410323088		107-TF		MOSS-LEWIS-CHURCH #1	WADSWORTH	3.0	EAST OHIO GAS CO
-WITCO CHEMICAL CORP				RECEIVED:	03/08/83	JA: OH			
8327032		3408923547		108		BLANCHE M MONTGOMERY #1-A		1.5	BOWERSTON SHALE C
8327033		3408923598		108		BLANCHE MONTGOMERY #2-A		1.5	BOWERSTON SHALE C
8327034		3408923806		108		CHESTER FLOWERS #1		1.5	NATIONAL GAS & OI
8327025		3408922778		108		HENRY H SHEPARD #1		1.5	NEWZANE GAS CO
8327026		3408922857		108		HENRY H SHEPARD #2		1.5	NEWZANE GAS CO
8327031		3408923436		108		HENRY H SHEPARD #3		1.5	NEWZANE GAS CO
8327035		3412724833		108		HOCKING VALLEY PRODUCTS CO #2031		1.5	PARAMOUNT TRANSMI
8327030		3408923071		108		L C GIFFEN #2		1.5	NATIONAL GAS & OI
8327027		3408922929		108		WILLIAM GIFFEN #1		1.5	NATIONAL GAS & OI
8327028		3408923056		108		WILLIAM GIFFEN #2		1.5	NATIONAL GAS & OI
8327029		3408923069		108		WILLIAM GIFFEN #3		1.5	NATIONAL GAS & OI
-ZENITH OIL & GAS INC				RECEIVED:	03/08/83	JA: OH			
8327036		3411926496		107-TF		BURRIER #6	NASHPORT	1.0	NATIONAL GAS & OI

OKLAHOMA CORPORATION COMMISSION

-AN-SON CORPORATION				RECEIVED:	03/11/83	JA: OK			
8327146	20558	3501121730		102-2		BIXLER #1-14	N E HYDRO	750.0	DELHI GAS PIPELIN
-ANADARKO LAND & EXPLORATION CO				RECEIVED:	03/11/83	JA: OK			
8327140	20541	3504722855		103		BOEPPLE #1-27	GARBER	55.0	CHAMPLIN PETROLEU
8327141	20542	3504723070		103		CRITES #1-34	WEST GARBER	273.0	CHAMPLIN PETROLEU
-ANADARKO PRODUCTION COMPANY				RECEIVED:	03/09/83	JA: OK			
8327044	19177	3500722197		102-4		KIKG "E" #1	EAST LORENA	91.0	PANHANDLE EASTERN
-ANDOVER OIL COMPANY				RECEIVED:	03/09/83	JA: OK			
8327041	19127	3501722110		102-2	103	NICHOLSON #16-1		90.0	PHILLIPS PETROLEU
-APACHE CORPORATION				RECEIVED:	03/09/83	JA: OK			
8327042	19151	3500920502		102-3		KIRK 1-A		560.0	EL PASO NATURAL G
-ARKOMA GAS CO				RECEIVED:	03/11/83	JA: OK			
8327147	20565	3512120910		103		BE ANN PUCKETT 1-32	WEST SCIPIO	32.0	ARKANSAS LOUISIAN
-B & J DEVELOPERS INC				RECEIVED:	03/11/83	JA: OK			
8327151	16816	3514722404		103		NICHOLSON #1	WILDCAT	182.5	BARON PIPELINE IN
-B J HOWELL				RECEIVED:	03/11/83	JA: OK			
8327148	20563	3506321635		103		BOYD #2	SHADY GROVE	0.0	HILL TOP INVESTME
-BROCK HYDROCARBONS INC				RECEIVED:	03/10/83	JA: OK			
8327076	17989	3515321136		102-2	103	COOPER #1-13		0.0	INTER NORTH INC
-BUFORD WILLIAMS				RECEIVED:	03/10/83	JA: OK			
8327085	19344	3514321981		102-2		SHEEHAN #1		0.0	DIAMOND "S" GAS I
-C E DINSMORE				RECEIVED:	03/11/83	JA: OK			
8327163	20414	3500300000		108		GLENN DAGUE #1 00464	RINGWOOD	8.9	UNION TEXAS PETRO
-CHEROKEE RESOURCE MANAGEMENT				RECEIVED:	03/10/83	JA: OK			
8327065	20483	3508121768		103		EVANS #6	SOUTH STROUD PRUE	23.0	SWAB CORP
-CHEYENNE EXPLORATION INC				RECEIVED:	03/09/83	JA: OK			
8327061	18164	3500320971		103		BROOKS #1	RINGWOOD	0.0	UNION TEXAS PETRO
-CITIES SERVICE COMPANY				RECEIVED:	03/10/83	JA: OK			
8327088	20512	3505121107		103		SPARKS G #1	BRADLEY	49.5	TRANSOK PIPE LINE
-CLARK RESOURCES INC				RECEIVED:	03/10/83	JA: OK			
8327075	18212	3507323544		102-4		KLINNERT 10-1 (VIOLA)	SOONER TREND	200.0	CITIES SERVICE GA
8327089	20581	3509322573		103		SIRECKER 18-1	SOONER TREND	205.0	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED:	03/09/83	JA: OK			
8327046	19335	3514920203		102-2		HUCKABY "10" #2	SENTINEL	365.0	PRODUCERS GAS CO
-DAVIS OIL COMPANY				RECEIVED:	03/09/83	JA: OK			
8327043	19168	3504722990		102-2		ALFRED #1	HILLSDALE	0.0	PANHANDLE EASTERN
-DLB ENERGY CORP				RECEIVED:	03/11/83	JA: OK			
8327160	20686	3507323650		103		FELTA #33-1	SOONER TREND	0.0	PHILLIPS PETROLEU
-DOME PETROLEUM CORP				RECEIVED:	03/09/83	JA: OK			
8327051	20423	3504921895		103		COOK #3-6	S E FOSTER	4.0	SOHIO PETROLEUM C
-DOWNEY OIL CO				RECEIVED:	03/11/83	JA: OK			
8327156	19363	3508321966		102-2		MARIAN #1	SW FAIR OAK	0.0	BUCKEYE NATURAL G
-ECC OIL CO				RECEIVED:	03/11/83	JA: OK			
8327159	19476	3514721032		108		GREENWOOD #2A SE/4 17-25N-14E	OGLESBY GAS FIELD	20.0	OKAN GAS CO
8327158	19475	3514721271		108		SNOW #1 C NW/4 NW/4 17-25N-14E	OGLESBY GAS FIELD	0.0	OKAN GAS CO
-ENSERCH EXPLORATION INC				RECEIVED:	03/09/83	JA: OK			
8327038	17065	3508772071		103		LIBERTY NATIONAL BANK & TRUST #1	BLANCHARD FIELD	0.0	LONE STAR GAS CO
8327047	19509	3514920331		103		MARY C PRICE #1	BURNS FLAT	600.0	NATURAL GAS PIPEL
8327062	18339	3508720772		103		T W PEARCY #1-31	BLANCHARD	250.0	LONE STAR GAS CO
-ENSERCH EXPLORATION INC				RECEIVED:	03/11/83	JA: OK			
8327152	17640	3508720737		103		T W PEARCY #1	BLANCHARD	0.0	LONE STAR GAS CO
-F HOWARD WALSH JR				RECEIVED:	03/10/83	JA: OK			
8327078	20555	3505121348		103		HIBBERT #1		37.0	TRANSOK PIPE LINE
8327077	20556	3505121309		103		WALTERS #1		55.0	TRANSOK PIPE LINE
-GEORGE E FEARS				RECEIVED:	03/09/83	JA: OK			
8327052	20424	3508329798		103		ACTON #2		0.0	EASON OIL CO
-GEORGE L LONG				RECEIVED:	03/10/83	JA: OK			
8327066	20478	3505320861		103		J C FEIST 05320861	WAKITA TREND	108.0	SUN EXPLORATION &
-HARPER OIL COMPANY				RECEIVED:	03/10/83	JA: OK			
8327080	20517	3507321231		108		FLORINE #2	SOONER TREND	14.0	PHILLIPS PETROLEU
-HELMERICH & PAYNE INC				RECEIVED:	03/09/83	JA: OK			
8327045	19323	3512920266		102-2		BOGGES #1	S W HERRING	110.0	MICHIGAN WISCONSI
-HOLD OIL CORP				RECEIVED:	03/10/83	JA: OK			
8327070	19327	3506120421		102-2		AUBREY PRINCE #1-1	UN-NAMED	40.0	ARKANSAS LOUISIAN
8327083	19375	3506102499		102-2		HOLD OIL CORP QUINE DUTSCH #1	BROOKEN	185.0	ARKANSAS LOUISIAN
8327071	19326	3506120423		102-2		JERL PRINCE #1-1	UN-NAMED	70.0	ARKANSAS LOUISIAN
-HOLD OIL CORP				RECEIVED:	03/11/83	JA: OK			
8327136	20525	3512120881		103		A C BROWN #1	NORTH CANADIAN	150.0	ARKANSAS LOUISIAN
-JAMES C MEADE				RECEIVED:	03/11/83	JA: OK			
8327161	20248	3507920125		108		EBERLY & MEADE WOOD #1	CARTERSVILLE	17.0	AMCOLE ENERGY COR
-JOHN A TAYLOR				RECEIVED:	03/10/83	JA: OK			
8327074	19041	3508720638		102-4		MCMURRAY #1	S FREENY	0.0	SUN EXPLORATION &
-LADD PETROLEUM CORPORATION				RECEIVED:	03/11/83	JA: OK			
8327143	20551	3504322493		103		MCDANIEL #4	SEILING NE	301.1	DELHI PIPE LINE C
-LOBAR OIL CO INC				RECEIVED:	03/11/83	JA: OK			
8327157	19364	3503920412		102-2		SUSANNA #1		0.0	
-LONG ROYALTY CO				RECEIVED:	03/10/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8327067	20429	3501700000		103		BEROUSEK #2	MUSTANG	0.0	
-MAJOR OIL CORP				RECEIVED:	03/10/83	JA: OK			
8327068	20427	3500321007		103		QING #1-9	GOULTRY	75.0	PANHANDLE EASTERN
-MEEK OIL PRODUCTION CO INC				RECEIVED:	03/09/83	JA: OK			
8327040	17711	3510720954		102-4		FISHER 3-A		0.0	SWAB CORP
-MOBIL OIL CORP				RECEIVED:	03/09/83	JA: OK			
8327049	20256	3501900000		108		DEESE-GRAHAM UT 2311 SWARTZ #11	SHO VEL TUM	4.9	OKLAHOMA NATURAL
-MURCHISON OIL & GAS INC				RECEIVED:	03/09/83	JA: OK			
8327050	20257	3500320998		103		REDMAN #1	MILLS PROSPECT	18.0	PANHANDLE EASTERN
-OIL LIFT INC				RECEIVED:	03/10/83	JA: OK			
8327084	19346	3510525790		102-2		HILL #1-29 (API 10525790)		14.6	PELICAN PIPELINE
-OLD DOMINION OIL CORP				RECEIVED:	03/11/83	JA: OK			
8327139	20540	3503920666		103		GOODWIN #1	SOUTHEAST ANTHON	197.2	ARKANSAS LOUISIAN
-OUACHITA EXPLORATION INC				RECEIVED:	03/11/83	JA: OK			
8327134	20519	3503120629		103		MORFORD #2	EAST LAWTON	180.0	ARKANSAS LOUISIAN
-PETRO-LEWIS CORPORATION				RECEIVED:	03/11/83	JA: OK			
8327149	20566	3507325664		103		HARRISON 9-1	SOONER TREND	180.0	CITIES SERVICE GA
8327154	18548	3507300000		108		MARIE 2-1	LOYAL S W	11.0	PARTNERSHIP PROPE
8327153	18546	3507300000		108		MESIS 26-1	DOVER-HENNESSEY	4.2	EASON OIL CO
8327155	18549	3507300000		108		PRIVOTT 8-1	LOYAL S W (E OMEGA)	5.3	PARTNERSHIP PROPE
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	03/11/83	JA: OK			
8327137	20526	3501722123		103		MANSFIELD B #1	WEST OKARCHE	74.0	
-PRIME ENERGY CO				RECEIVED:	03/09/83	JA: OK			
8327055	20466	3508121474		103		CAMP #10-2	SW MT VERNON	175.0	SUN GAS CO
-RICKS EXPLORATION CO				RECEIVED:	03/10/83	JA: OK			
8327087	20515	3504321427		103		SNYDER 24-A	SNYDER	105.0	OKLAHOMA GAS & EL
-RICKS EXPLORATION CO				RECEIVED:	03/11/83	JA: OK			
8327133	20514	3501121738		103		MEYER #18-B	ACRE	93.0	OKLAHOMA GAS & EL
-ROBERT COLE				RECEIVED:	03/11/83	JA: OK			
8327142		3505320851		103		ARLEEN #1		36.0	HIGHT SERVICE CO
-ROGER S ELLER				RECEIVED:	03/11/83	JA: OK			
8327150	20573	3511123978		103		WITHROW-A #1A	HENRYETTA	8.0	PHILLIPS PETROLEU
-SABINE CORP				RECEIVED:	03/10/83	JA: OK			
8327082	20111	3512900000		108		STATE #2-13	PUTNAM	8.0	PANHANDLE EASTERN
-SABINE PRODUCTION COMPANY				RECEIVED:	03/11/83	JA: OK			
8327144	20552	3512920664		102-2	103	BOGGES #2-29		0.0	EL PASO NATURAL G
-SAMSON RESOURCES COMPANY				RECEIVED:	03/11/83	JA: OK			
8327132	20492	3502520527		103		BRISSELL #1	KEYES	113.6	COLORADO INTERSTA
-SCOGGINS PETROLEUM CORP				RECEIVED:	03/11/83	JA: OK			
8327135	20524	3511123491		103		ROOT #1	N E BEGGS	55.0	PHILLIPS PETROLEU
-SENECA OIL COMPANY				RECEIVED:	03/10/83	JA: OK			
8327073	19175	3509322537		102-2		ELWELL #1-30		403.3	PANHANDLE EASTERN
-SHAR-ALAN OIL CO				RECEIVED:	03/09/83	JA: OK			
8327056	23306	3515321405		103		FRANCIS BUTTEL #2-14	CEDERDALE N E	0.0	MICHIGAN WISCONSI
-SHAR-ALAN OIL CO				RECEIVED:	03/10/83	JA: OK			
8327069	19974	3515321368		103		M K ROBERTS #1-36	NORTHWEST CEDARDALE	0.0	MICHIGAN WISCONSI
-STEVE JERNIGAN INC				RECEIVED:	03/09/83	JA: OK			
8327060	16969	3501722272		102-2		RUBY ROYCE #1	CONCHO	0.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	03/09/83	JA: OK			
8327054	20436	3510321783		103		SOUTH LONE CLEVELAND SAND UNIT #75	SOUTH LONE ELM	1.0	AMINOIL U S A INC
8327048	19584	3507335714		108		STELLA OWENS 1-26	SOONER TREND	6.0	EXXON OIL CO U S
-TEXACO INC				RECEIVED:	03/10/83	JA: OK			
8327063	20498	3505300000		108		EMMA SMITH #1	CHEROKITA TREND	0.0	SUN GAS CO
-TRANS-WESTERN EXPLORATION INC				RECEIVED:	03/09/83	JA: OK			
8327057	23311	3514920297		107-DP		KLAUSE #1-21	WILDCAT	135.0	
8327059	23313	3514920291		107-DP		MOSER 1-11	WILDCAT	70.0	
8327058	23312	3514920308		107-DP		STEHR #1-15	(WILDCAT)	365.0	
-TRIGG DRILLING COMPANY INC				RECEIVED:	03/11/83	JA: OK			
8327145	20557	3500920524		102-2	103	MCCANDLESS #1		175.0	
-TXO PRODUCTION CORP				RECEIVED:	03/10/83	JA: OK			
8327072	19176	3506120515		102-2	103	DAVIS-FEDERAL #1	BROOKEN	476.0	UNITED GAS PIPE L
8327081	20322	3507720209		108		PARSONS "A" #1		168.0	ARKANSAS LOUISIAN
8327086	18983	3509120345		102-2	103	TED JOHNSON #1	S E CHOCOTAH	263.0	COLUMBIA GAS TRAN
-UNION TEXAS PETROLEUM				RECEIVED:	03/09/83	JA: OK			
8327037	16803	3509322476		103		J WILSON #2	HODGE AREA	182.5	PANHANDLE EASTERN
8327039	17682	3500320985		103		P H HERTZLER 'C' #2	HODGE AREA	189.5	PANHANDLE EASTERN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	03/10/83	JA: OK			
8327064	20496	3507961413		108		JOHNSON #1	KINTA	0.0	ARKANSAS LOUISIAN
-VIERSEN & COCHRAN				RECEIVED:	03/11/83	JA: OK			
8327138	20539	3509322568		103		BARNARD #2-10	N W OKEENE	180.0	PHILLIPS PETROLEU
-WESTHEIMER-NEUSTADT CORP				RECEIVED:	03/09/83	JA: OK			
8327053	20425	3501922526		103		ARNOLD #1	WEST HEWITT	30.0	
-WHITMAR EXPLORATION CO				RECEIVED:	03/10/83	JA: OK			
8327079	20353	3508720761		103		ELMER CLINK #1-14	WILDCAT	0.0	WARREN PETROLEUM
-WOOD & LOCKER INC				RECEIVED:	03/11/83	JA: OK			
8327162	20276	3504321519		103		DROKE #2	COTTAGE GROVE	8.0	HYDROCARBON SERVI
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-ADOBE OIL & GAS CORPORATION				RECEIVED:	03/10/83	JA: PA			
8327090	19298	3733214690		103		ROBERT KLINE #1	PIKE	24.0	CONSOLIDATED GAS
-ALMA M SINN				RECEIVED:	03/10/83	JA: PA			
8327126	19170	3712900000		108		GROZNIK #1		6.6	PEOPLES NATURAL G
-ANGERMAN ASSOCIATES INC				RECEIVED:	03/10/83	JA: PA			
8327094	19169	3706326548		103		GEO & EDITH M BURTICK #1-IND-26548	W PENNA-UPPER DEVONIA	35.0	PEOPLES NATURAL G
8327092	19156	3706326708		103		JOHN K CRIBBS #3 - IND-26708	W PENNA-UPPER DEVONIA	50.0	PEOPLES NATURAL G
8327093	19158	3712900000		103		LEE M KIRCHNER #1 - WES-21941	W PENNA-UPPER DEVONIA	10.0	PEOPLES NATURAL G
-CHARLES L VALONE				RECEIVED:	03/10/83	JA: PA			
8327130	19264	3704920551		108		VALONE #4	NORTH EAST	4.0	NATIONAL FUEL GAS
8327131	19266	3704920643		108		VALONE #5A	NORTH EAST	9.0	NATIONAL FUEL GAS
-E & W DEVELOPMENT CO				RECEIVED:	03/10/83	JA: PA			
8327095	19238	3706327265		103		CLAUSON 2-75	BLAIRSVILLE	27.0	T W PHILLIPS GAS
-ENERGY GAS & OIL CORP				RECEIVED:	03/10/83	JA: PA			
8327096	17803	3700521138		103		ROBERT PATRICK #1 SER NO 110	GOHENVILLE/SCRUBGRASS	18.5	PEOPLES NATURAL G
-ENERGY PRODUCTION CO				RECEIVED:	03/10/83	JA: PA			
8327097	19183	3706326761		103		BETHLEHEM MINES #1	NOLO MOUNTAIN	33.0	T W PHILLIPS GAS
8327098	19184	3706327143		103		DEYARMIN #1	NOLO MOUNTAIN	64.0	T W PHILLIPS GAS
8327100	19186	3706300000		103		LACARTE ENTERPRISES #19	NOLO MOUNTAIN	61.0	T W PHILLIPS GAS
8327099	19185	3706300000		103		LACARTE ENTERPRISES #7	NOLO MOUNTAIN	23.0	T W PHILLIPS GAS
-FAIRMAN DRILLING CO				RECEIVED:	03/10/83	JA: PA			
8327102	19306	3712920344		108		FRANK LITVIK #1 UNIT #2 F-88	NEW ALEXANDRIA	12.0	PEOPLES NATURAL G
8327101	19215	3703321513		102-2		JOHN DVORCHAK #1 F-3717	CHERRY TREE	30.0	COLUMBIA GAS TRAN
-FOX OIL & GAS INC				RECEIVED:	03/10/83	JA: PA			
8327104	19173	3706326861		103		MARY K FRANTZ #1 277	MONTGOMERY TOWNSHIP	25.5	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8327103	14141	3706326764		102-2		SCHROTH #5	CHERRYHILL TOWNSHIP	25.5	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	03/10/83	JA: PA			
8327105	18968	3706327228		103		TIMBERLAKE FAMILY CAMPING ASSOC 55A	NORTH MAHONING	0.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:	03/10/83	JA: PA			
8327125	18893	3706327258		103		DALE STARTZELL #3 PS-419	CANOE	41.0	CONSOLIDATED GAS
-KEPCO INC				RECEIVED:	03/10/83	JA: PA			
8327106	19307	3705921763		102-4		E V BUNNER NO 4 (PK-1)	GARRARDS FORT	31.0	NEW JERSEY NATURA
-KEYSTATE INC				RECEIVED:	03/10/83	JA: PA			
8327107	19216	3706300000		103		READE/STINEMAN #1	ROCHESTER MILLS	36.0	T W PHILLIPS GAS
8327108	19217	3706300000		103		READE/STINEMAN #2	ROCHESTER MILLS	12.0	T W PHILLIPS GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	03/10/83	JA: PA			
8327109	19305	3706327030		103		HOGUE #2	MARVIN HOGUE	41.1	PEOPLES NATURAL G
-KRIEBEL WELLS #2				RECEIVED:	03/10/83	JA: PA			
8327114	19288	3706327189		103		ADAMSON #1	ROCHESTER MILLS	21.0	
8327110	19130	3706327291		103		MAURER #1	CHERRYHILL	18.0	
8327113	19244	3706321514		103		REIRDON #2	BIG RUN	20.0	
8327111	19201	3706321515		103		REIRDON #3	BIG RUN	19.0	
8327112	19243	3706327336		103		RELLICK #2	CREEKSIDE	8.0	
-LOYALHANNA DRILLING PROGRAM				RECEIVED:	03/10/83	JA: PA			
8327115	18695	3712921713		108		BEZICH #2	LOYALHANNA	10.0	T W PHILLIPS GAS
8327116	18696	3712921740		108		MEISSNER #1	BELL	10.0	T W PHILLIPS GAS
8327117	18698	3712921714		108		STEELE #2	LOYALHANNA	5.0	T W PHILLIPS GAS
-MERIDIAN EXPLORATION CORP				RECEIVED:	03/10/83	JA: PA			
8327118	19280	3703921833		102-2		BLYSTONE/JUBER #648-1	ROCKDALE	30.0	NATIONAL FUEL GAS
8327119	19281	3703921833		107-TF		BLYSTONE/JUBER #648-1	ROCKDALE	30.0	NATIONAL FUEL GAS
-NORTHWEST NATURAL GAS CO				RECEIVED:	03/10/83	JA: PA			
8327121	18854	3703921661		107-TF		MICHAEL W MEDVED #1	BEAVER CENTER	0.0	NATIONAL FUEL GAS
8327120	18855	3703921661		103		MICHAEL W MEDVED #1	BEAVER CENTER	0.0	NATIONAL FUEL GAS
-PETROBANK OPERATING CO				RECEIVED:	03/10/83	JA: PA			
8327122	19272	3706326635		102-2		CLARK ESTATES #11	MONTGOMERY	78.3	COLUMBIA GAS TRAN
8327123	19274	3706325829		102-2		CLARK ESTATES #8	MONTGOMERY	30.0	COLUMBIA GAS TRAN
-S T JOINT VENTURE - 81-B				RECEIVED:	03/10/83	JA: PA			
8327124	19166	3703321468		103		HARTFIELD #1	PENN	25.0	CONSOLIDATED GAS
-SNYDER BROTHERS INC				RECEIVED:	03/10/83	JA: PA			
8327091	19302	3706322683		103		JOHN P BELL #1	BELL TWP	10.0	T W PHILLIPS GAS
8327127	19237	3706322684		103		JOHN P BELL #2	BELL TWP	10.0	T W PHILLIPS GAS
-UNION DRILLING INC				RECEIVED:	03/10/83	JA: PA			
8327128	19284	3706326164		102-2		HARVEY BROWN #3 0641	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8327129	19286	3706326227		102-2		RONALD CRAMER #1 0747	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
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-ALTA ENERGY CORP				RECEIVED:	03/10/83	JA: CO 1			
8327198	CD0613-82A	0507708524		103	107-TF	ALTA 23-1	SHIRE GULCH	0.0	NORTHWEST PIPELIN
8327197	CD0613-82B	0507708524		103	107-TF	ALTA 23-1	SHIRE GULCH	200.0	NORTHWEST PIPELIN
-AMERICAN RESOURCES MANAGEMENT CORPO				RECEIVED:	03/10/83	JA: CO 1			
8327183	CD 0503-82	0504506010		108		S C #11-1	SOLDIER CANYON	34.9	NORTHWEST PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED:	03/10/83	JA: CO 1			
8327192	CD0615-82	0506706638		107-TF		SOUTHERN UTE 22-3 32-8 (TF)	IGNACIO BLANCO	107.0	WESTERN SLOPE GAS
-BEREN CORPORATION				RECEIVED:	03/10/83	JA: CO 1			
8327193	CD0614-82	0512310771		103		GOVERNMENT #4-27	SOONER FIELD	25.0	KANSAS-NEBRASKA N
-GREENSTREET LLOYD M				RECEIVED:	03/10/83	JA: CO 1			
8327165	CD 0579-82PB	0506705806		108-PB		UTE "A" #3 (88195)	IGNACIO BLANCO	0.0	NORTHWEST PIPELIN
-KENAI OIL AND GAS INC				RECEIVED:	03/10/83	JA: CO 1			
8327188	CD 0497-82	0504506301		103	107-TF	FEDERAL D-31-7-95-S	RULISON	0.0	
-LADD PETROLEUM CORPORATION				RECEIVED:	03/10/83	JA: CO 1			
8327185	CD 0001-83PB	0506705573		108-PB		LONG MOUNTAIN #1-27	MESA VERDE	0.0	EL PASO NATURAL G
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	03/10/83	JA: CO 1			
8327170	CD 0346-82	0510308066		108-PB		PHILADELPHIA CREEK #18	MANCOS B	0.0	NORTHWEST PIPELIN
8327168	CD 0019-83PB	0510308224		108-PB		PHILADELPHIA CREEK 12X	PHILADELPHIA CREEK	0.0	NORTHWEST PIPELIN
8327169	CD 0020-83PB	0510308065		108-PB		PHILADELPHIA CREEK #17	MANCOS B	0.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	03/10/83	JA: CO 1			
8327166	CD 0017-83PB	0506705635		108-PB		BONDAD 34-10 #7	IGNACIO BLANCO MESAVE	0.0	NORTHWEST PIPELIN
8327167	CD 0018-83PB	0506705111		108-PB		NORTHWEST CEDAR HILLS 32-10 #13	IGNACIO BLANCO MESAVE	0.0	NORTHWEST PIPELIN
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	03/10/83	JA: CO 1			
8327186	CD 0574-82	0510308676		107-TF		SAGE BRUSH HILLS II #11-2-99	CORRAL CREEK (MANCOS	153.0	INTER NORTH INC
-TETON ENERGY CO INC				RECEIVED:	03/10/83	JA: CO 1			
8327189	CD0618-82	0507708431		102-2		ROAN CREEK FEDERAL 26-3	COON HOLLOW	18.3	NORTHWEST PIPELIN
8327191	CD0612-82	0507708432		102-2		ROAN CREEK FEDERAL 26-4	COON HOLLOW	152.0	NORTHWEST PIPELIN
8327190	CD0617-82	0507708420		102-2		ROAN CREEK FEDERAL 35-2	COON HOLLOW	555.5	NORTHWEST PIPELIN
-WALTER S FEES JR				RECEIVED:	03/10/83	JA: CO 1			
8327196	CD0554-82	0507708506		102-3		FEDERAL #2-24-81	WILDCAT	0.0	WESTERN SLOPE GAS
8327164	CD 0553-82	0507708505		102-3		HUNTERS CANYON UNIT #8	HUNTERS CANYON	0.0	WESTERN SLOPE GAS
-WILLIAM PERLMAN				RECEIVED:	03/10/83	JA: CO 1			
8327181	CD 0600-82	0506706530		103	107-TF	SOUTHERN UTE #1-22	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8327182	CD 0601-82	0506706529		103	107-TF	SOUTHERN UTE #1-27	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8327180	CD 0602-82	0506706527		103	107-TF	SOUTHERN UTE #1-32	IGANCIO BLANCO	0.0	EL PASO NATURAL G
-COASTAL OIL & GAS CORP				RECEIVED:	03/10/83	JA: UT 1			
8327184	UD 0616-82	4304731139		103	107-TF	NBU 200-7	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
-ENSERCH EXPLORATION INC				RECEIVED:	03/10/83	JA: UT 1			
8327187	UD 0289-82	4304700000		103	107-TF	FLAT MESA FEDERAL #2-7	BONANZA	0.0	NATURAL GAS PIPEL
-J C THOMPSON				RECEIVED:	03/10/83	JA: UT 1			
8327195	UD0611-82	4301930375		108		FEDERAL 104 #1	BULL CANYON	0.0	NATURAL GAS PIPEL
-MAPCO PRODUCTION COMPANY				RECEIVED:	03/10/83	JA: UT 1			
8327173	UD 0524-82	4304731046		103	107-TF	RBU 1-10E	RIVER BEND	0.0	PACIFIC GAS & ELE
8327175	UD 0520-82	4304730926		103	107-TF	RBU 1-14E	RIVER BEND	0.0	PACIFIC GAS & ELE
8327171	UD 0526-82	4304730915		103	107-TF	RBU 1-15E	RIVER BEND	0.0	PACIFIC GAS & ELE
8327176	UD 0519-82	4304730927		103	107-TF	RBU 1-22E	RIVER BEND	0.0	PACIFIC GAS & ELE
8327177	UD 0518-82	4304730970		103	107-TF	RBU 1-23E	RIVER BEND	0.0	PACIFIC GAS & ELE
8327174	UD 0521-82	4304730759		103	107-TF	RBU 11-24E	RIVER BEND	0.0	PACIFIC GAS & ELE
8327178	UD 0517-82	4304730971		103	107-TF	RBU 4-19F	RIVER BEND	0.0	PACIFIC GAS & ELE
8327172	UD 0525-82	4304730762		103	107-TF	RBU 6-20F	RIVER BEND	0.0	PACIFIC GAS & ELE
-TENNECO OIL COMPANY				RECEIVED:	03/10/83	JA: UT 1			
8327179	UD 0599-82	4301930779		103		TOC/TXO/PDGO/USA 15-9	BRYSON CANYON	100.0	SOUTHWEST GAS COR
-TXO PRODUCTION CORP				RECEIVED:	03/10/83	JA: UT 1			
8327194	UD 0619-82	4301931009		103		VALENTINE FEDERAL #3	SAN ARROYO	46.0	NORTHWEST PIPELIN

[FR Doc. 83-9617 Filed 4-11-83; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 6, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capital St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS VOLUME 866

ISSUED APRIL 6, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-ROBERSON WELL SERVICE				RECEIVED:	03/14/83	JA: LA			
8327464	82-1041	17111123527		103		UNION PRODUCING CO #4	MONROE	14.0	PETRO LEWIS CORP
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-REEF PETROLEUM CORP				RECEIVED:	03/11/83	JA: MI			
8327425		2102500000		102-4		MULL #1-32	CONVIS "32"	0.0	
NEBRASKA OIL & GAS CONSERVATION COMMISSION									
-MARATHON OIL COMPANY				RECEIVED:	03/14/83	JA: NB			
8327463		2603322156		103		RIPPE "B" WELL #6	HUNTSMAN	6.0	KANSAS NEBRASKA N
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-BUFFTON OIL & GAS INC				RECEIVED:	03/11/83	JA: NM			
8327427		3002500000		102-4		EIDSON #1	TOWNSEND	274.0	GAS CO OF NEW MEX
-EL PASO NATURAL GAS COMPANY				RECEIVED:	03/11/83	JA: NM			
8327426		3004520874		108		HUERFANO UNIT #227	BASIN - DAKOTA	9.0	EL PASO NATURAL G
-KENAI OIL AND GAS INC				RECEIVED:	03/11/83	JA: NM			
8327428		3004526190		102-2		NEW MEXICO STATE #2	NAGEEZI	0.0	GAS CO OF NEW MEX
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-AMERICAN PENN ENERGY INC				RECEIVED:	03/14/83	JA: NY			
8327507	2606	3102915430		107-TF		D V VALENTINE #1 (1445)	BRANT	10.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	03/11/83	JA: NY			
8327371	3523	3101316879		107-TF		ENGSTROM #1	STEBBINS CORNERS	10.0	COLUMBIA GAS TRAN
8327408	3197	3101316704		107-TF		GROSS UNIT #1	GERRY	15.0	COLUMBIA GAS TRAN
8327372	3521	3101317058		107-TF		J BYLER UNIT #1	STEBBINS CORNERS	11.0	COLUMBIA GAS TRAN
8327367	3536	3101317030		107-TF		M CADY #1	STEBBINS CORNERS	10.0	COLUMBIA GAS TRAN
8327369	3534	3101317031		107-TF		MCCRAY UNIT #1	STEBBINS CORNERS	10.0	COLUMBIA GAS TRAN
8327370	3525	3101316432		107-TF		N & E REED UNIT #7	RIPLEY-MINA	12.0	COLUMBIA GAS TRAN
8327409	3686	3101317011		107-TF		R S MILLER #6	WILDCAT	12.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC				RECEIVED:	03/11/83	JA: NY			
8327362	3672	3101317024		107-TF		PFLEEGER #1	BUSTI	0.0	COLUMBIA GAS TRAN
8327361	3199	3101317086		107-TF		POLLOCK UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
-CHAUTAUQUA ENERGY INC				RECEIVED:	03/11/83	JA: NY			
8327345	4907	3101318040		103		ISSLER #2	SHERMAN	12.0	COLUMBIA GAS TRAN
8327344	4904	3101318040		107-TF		ISSLER #2	SHERMAN	12.0	COLUMBIA GAS TRAN
8327343	4905	3101314848		103		PETERSON #1	SHERMAN	12.0	COLUMBIA GAS TRAN
8327342	4906	3101314848		107-TF		PETERSON #1	SHERMAN	12.0	COLUMBIA GAS TRAN
-CUMBERLAND OIL CORP				RECEIVED:	03/11/83	JA: NY			
8327403	3949	3101316837		107-TF		LUSTIG #1	VILLENOVA	20.0	TENNESSEE GAS PIP
-DORAN & ASSOCIATES INC				RECEIVED:	03/11/83	JA: NY			
8327389	3833	3101317064		107-TF		A BUTTON UNIT #1 KV-16	CARROLL	30.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8327334	3766	3101316210		107-TF		D FRITTON #1 KV-35	CARROLL	30.0	COLUMBIA GAS TRAN
8327410	3697	3101316033		107-TF		D LUNDMARK #1-A KA-93	CARROLL	30.0	COLUMBIA GAS TRAN
8327354	4230	3100916993		107-TF		D PAYNE #1 KA-112	CONEWANGO	30.0	COLUMBIA GAS TRAN
8327352	4238	3100917278		107-TF		D PAYNE #2 KX-17	CONEWANGO	30.0	COLUMBIA GAS TRAN
8327350	4233	3100917199		107-TF		D SCHULTZ #2 KX-6	CONEWANGO	30.0	COLUMBIA GAS TRAN
8327412	3696	3101317645		107-TF		D SISSON UNIT #1 KV-34	CARROLL	30.0	COLUMBIA GAS TRAN
8327377	3275	3100916882		107-TF		DONALD BEAVER #1 KA-111	RANDOLPH	30.0	COLUMBIA GAS TRAN
8327336	3830	3101317663		107-TF		E DERRY #1 KV-18	CARROLL	30.0	COLUMBIA GAS TRAN
8327363	3579	3101316398		107-TF		E FEATHERSTONE #1 KA-98	CARROLL	30.0	COLUMBIA GAS TRAN
8327388	3832	3101316252		107-TF		ECKSTROM UNIT #1 KA-95	CARROLL	30.0	COLUMBIA GAS TRAN
8327365	3556	3101316078		107-TF		G BUTTON #1 KA-109	CARROLL	30.0	COLUMBIA GAS TRAN
8327364	3580	3101315944		107-TF		G JOHNSON UNIT #1 KA-89	CARROLL	30.0	COLUMBIA GAS TRAN
8327359	3495	3101315968		107-TF		G SKINNER #1 K-V-27	CARROLL	30.0	COLUMBIA GAS TRAN
8327335	3765	3101316230		107-TF		H TODD ADAMS #1 KV-28	CARROLL	30.0	COLUMBIA GAS TRAN
8327353	4159	3101317701		107-TF		HOITINK UNIT #1 KA-149	FRENCH CREEK	30.0	COLUMBIA GAS TRAN
8327420	3497	3101315967		107-TF		I WALKER #1 K-A-96	CARROLL	30.0	COLUMBIA GAS TRAN
8327413	3629	3101317063		107-TF		M ANDERSON #1 KV-15	CARROLL	30.0	COLUMBIA GAS TRAN
8327338	3831	3101315981		107-TF		M PERCY #1 KV-36	CARROLL	30.0	COLUMBIA GAS TRAN
8327351	4235	3100917647		107-TF		ORR KINNEY #1 KX-19	CONEWANGO	30.0	COLUMBIA GAS TRAN
8327411	3695	3101315966		107-TF		R JOHNSON #1 KA-91	CARROLL	30.0	COLUMBIA GAS TRAN
8327358	3496	3101315947		107-TF		R MINOR #1 K-A-97	CARROLL	30.0	COLUMBIA GAS TRAN
8327419	3274	3100916304		107-TF		RAYMOND HADLEY #2 KA-115	CONEWANGO	30.0	COLUMBIA GAS TRAN
8327422	3499	3101317066		107-TF		SWANSON UNIT #1 K-V-17	CARROLL	30.0	COLUMBIA GAS TRAN
8327366	3555	3101315977		107-TF		V NELSON #1 KA-90	CARROLL	30.0	COLUMBIA GAS TRAN
8327421	3498	3101315978		107-TF		W FENTON #1 K-A-100	CARROLL	30.0	COLUMBIA GAS TRAN
8327332	3630	3101315935		107-TF		WAITE UNIT #1 KA-94	CARROLL	30.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	03/11/83	JA: NY			
8327376	2344	3101315777		107-TF		NYS REFORESTATION AREA 3/ #3	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
-EYE PETROLEUM ASSOCIATES				RECEIVED:	03/11/83	JA: NY			
8327340	4910	3102918112		103		BOASBERG #1	LAKE SHORE	12.0	NATIONAL FUEL GAS
8327341	4909	3102918111		103		EHNKE #1	LAKE SHORE	12.0	NATIONAL FUEL GAS
-HUGOTON PETROLEUM INC				RECEIVED:	03/11/83	JA: NY			
8327396	3915	3101316951		107-TF		COUNTY PARCEL 14 WELL #1	STEBBINS CORNERS	15.0	COLUMBIA GAS TRAN
8327397	3913	3101316948		107-TF		PATTON #1	STEBBINS CORNERS	15.0	COLUMBIA GAS TRAN
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	03/11/83	JA: NY			
8327348	4934	3100916928		103		VANETTEN #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	03/11/83	JA: NY			
8327264	3308	3100913372		108		ACKLEY #1705	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327331	3417	3100360364		108		ADAMS #2133	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327292	3418	3100360365		108		ADAMS #2134	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327231	3224	3102914761		108		ANDRES #1175	TOWN OF NORTH COLLINS	1.0	GENERAL SYSTEM PU
8327243	3442	3102903013		108		ASMUS FARM #1891	TOWN OF ALDEN	0.3	GENERAL SYSTEM PU
- 8327267	3296	3100913363		108		AVERILL #1687	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327269	3294	3100913365		108		AVERILL #1689	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327222	3401	3102960316		108		BECKER #993	TOWN OF ORCHARD PARK	2.3	GENERAL SYSTEM PU
8327242	3435	3103703092		108		BEECHY FARM #1872	DARIEN	0.7	GENERAL SYSTEM PU
8327219	3408	3102932270		108		BLAIR #1283	TOWN OF LANCASTER	1.2	GENERAL SYSTEM PU
8327233	3222	3102909050		108		BOARDWAY #1148	TOWN OF NORTH COLLINS	1.3	GENERAL SYSTEM PU
8327232	3223	3102914760		108		BOARDWAY #1173	TOWN OF NORTH COLLINS	0.4	GENERAL SYSTEM PU
8327287	3340	3101302744		108		BRITZ FARM #1999	TOWN OF SHERIDAN	3.7	GENERAL SYSTEM PU
8327322	3402	3102908155		108		BUERGER #997-I	TOWN OF HAMBURG	8.2	GENERAL SYSTEM PU
- 8327323	3407	3102960317		108		BUFFALO SAND & GRAVEL #1288-I	TOWN OF PORTERVILLE	12.7	GENERAL SYSTEM PU
8327298	3343	3101360335		108		CHEKALSKI #2016	TOWN OF SHERIDAN	5.2	GENERAL SYSTEM PU
8327307	3349	3101303168		108		CIVILETTE #2023	TOWN OF POMFRET	2.6	GENERAL SYSTEM PU
8327297	3423	3100360352		108		CRITTENDEN #2110	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327312	3367	3102908232		108		DAMBACH #700-I	TOWN OF HAMBURG	4.1	GENERAL SYSTEM PU
8327259	3305	3100913361		108		DEAN #1700	TOWN OF DAYTON	2.3	GENERAL SYSTEM PU
8327223	3318	3102903024		108		DENZ FARM #1815	TOWN OF ALDEN	0.3	GENERAL SYSTEM PU
8327300	3426	3100360358		108		DICKERSON #2121	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327301	3427	3100360359		108		DICKERSON #2122	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327302	3428	3100360360		108		DICKERSON #2123	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327308	3350	3101301479		108		DRAGGETT #2025	TOWN OF POMFRET	6.9	GENERAL SYSTEM PU
8327282	3334	3100360340		108		E C & F CO FARM #2086	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327283	3335	3100360341		108		E G & F CO #2087	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327304	3430	3100360361		108		E G & F CO #2126	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327329	3415	3100360362		108		E G & F CO #2127	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327281	3333	3100360339		108		E G & F CO FARM #2085	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327254	3321	3103729330		108		EDWARDS #1801	TOWN OF PEMBROKE	1.0	GENERAL SYSTEM PU
8327315	3440	3101302727		108		EHNKE #1879	TOWN OF HANOVER	1.6	GENERAL SYSTEM PU
8327273	3324	3106960338		108		EVERGREEN #2052	TOWN OF BRISTOL	1.4	GENERAL SYSTEM PU
8327237	3433	3101302769		108		FEINAN FARM #1870	SHERIDAN	0.9	GENERAL SYSTEM PU
8327303	3429	3100360368		108		FOLAND #2125	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327311	3358	3102960313		108		GOLDSMITH #248	TOWN OF BRANT	7.9	GENERAL SYSTEM PU
8327262	3302	3100914502		108		GOODENDOTE #1703	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327249	3309	3103703047		108		HALE FARM #1863	DARIEN	1.4	GENERAL SYSTEM PU
8327320	3392	3101360331		108		HALL #1947	TOWN OF POMFRET	3.8	GENERAL SYSTEM PU
8327274	3325	3101303172		108		HALLQUIST #2036	TOWN OF POMFRET	5.6	GENERAL SYSTEM PU
8327227	3385	3102903033		108		HALM FARM #1919	TOWN OF ALDEN	1.3	GENERAL SYSTEM PU
8327318	3320	3102904360		108		HANCHER #1791	TOWN OF COLDEN	7.2	GENERAL SYSTEM PU
8327319	3369	3100905375		108		HEBNER #2376-I	TOWN OF ALMA	3.2	GENERAL SYSTEM PU
8327221	3322	3102960325		103		HEININGER #1856	TOWN OF LANCASTER	1.0	GENERAL SYSTEM PU
8327305	3432	3103703098		108		HIGGINS #1865	TOWN OF DARIEN	2.0	GENERAL SYSTEM PU
8327240	3437	3103760327		108		HILLS #1874	TOWN OF DARIEN	1.0	GENERAL SYSTEM PU
8327241	3438	3103702935		108		HINT #1876	TOWN OF PEMBROKE	0.9	GENERAL SYSTEM PU
8327235	3405	3102914516		108		HYDE #1163	TOWN OF NORTH COLLINS	0.7	GENERAL SYSTEM PU
8327270	3293	3100914501		108		INMAN #1690	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327271	3292	3100913366		108		INMAN #1692	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327261	3303	3100913390		108		JENKS #1702	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327326	3413	3100913410		108		KENLEY #1686	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327217	3316	3102903163		108		KLAWER FARM #1831	NEWSTEAD	0.3	GENERAL SYSTEM PU
8327272	3286	3100913373		108		KOELZOW #1706	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327230	3225	3102914764		108		KOHN #1182	TOWN OF NORTH COLLINS	4.0	GENERAL SYSTEM PU
8327228	3227	3102914766		108		KOHN #1186	TOWN OF NORTH COLLINS	2.4	GENERAL SYSTEM PU
8327324	3409	3102960318		108		KRULL #1364	TOWN OF BRANT	7.9	GENERAL SYSTEM PU
- 8327238	3434	3101302826		108		LASECKI FARM #1871	SHERIDAN	0.4	GENERAL SYSTEM PU
8327266	3297	3100913391		108		LIPINSKI #1528	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327284	3336	3100360342		108		MACKEN #2088	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327275	3327	3100360344		108		MACKEN #2091	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327276	3329	3100360345		108		MACKEN #2093	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327251	3311	3101360324		108		MACKOWIAK FARM #1846	SHERIDAN	1.2	GENERAL SYSTEM PU
8327291	3344	3101360334		108		MAGGIO FARM #2003	ARKWRIGHT	3.1	GENERAL SYSTEM PU
8327244	3443	3101360329		108		MANGANO FARM #1895	HANOVER	0.8	GENERAL SYSTEM PU
8327246	3445	3106980666		108		MARROW #1905	TOWN OF BLOOMFIELD	1.0	GENERAL SYSTEM PU
- 8327296	3422	3101349860		108		MCGRAW #2369	TOWN OF POMFRET	10.4	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8327220	3319	3102403050		108		MEYERS FARM #1805	TOWN OF ALDEN	1.2	GENERAL SYSTEM PU
8327263	3301	3100913371		108		MILKS #1704	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327265	3299	3100913368		108		MILLER #1694	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327279	3331	3100360349		108		MOORE #2104	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327280	3332	3100360350		108		MOORE #2105	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327285	3337	3100360351		108		MOORE #2109	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327294	3420	3102904757		108		MORGANO #2362	TOWN OF BRANT	10.6	GENERAL SYSTEM PU
8327256	3308	3100913358		108		MOTT #1697	TOWN OF DAYTON	2.3	GENERAL SYSTEM PU
8327218	3397	3102960322		108		NOTARO #1969	TOWN OF BRANT	2.6	GENERAL SYSTEM PU
8327224	3317	3102903054		108		NUWER FARM #1822	TOWN OF ALDEN	0.7	GENERAL SYSTEM PU
8327286	3338	3100360346		108		O'DONNELL #2095	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327277	3329	3100360347		108		O'DONNELL #2096	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327278	3330	3100360348		108		O'DONNELL #2101	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327316	3441	3101302860		108		PACE #1885	TOWN OF SHERIDAN	1.7	GENERAL SYSTEM PU
8327225	3315	3102903056		108		PAUTLER FARM #1837	TOWN OF ALDEN	0.7	GENERAL SYSTEM PU
8327310	3352	3101301480		108		PERKINS #2027	TOWN OF POMFRET	7.5	GENERAL SYSTEM PU
8327293	3419	3101305267		108		PIROWSKI #2374	TOWN OF PORTLAND	9.8	GENERAL SYSTEM PU
8327247	3446	3110105288		108		POTTER #SC-419	TOWN OF TUSCARORA	3.5	GENERAL SYSTEM PU
8327250	3310	3101302840		108		RANSON FARM #1860	SHERIDAN	5.3	GENERAL SYSTEM PU
8327314	3384	3103702187		108		RAYMOND #1915	TOWN OF PAVILION	0.1	GENERAL SYSTEM PU
8327321	3394	3102960315		108		REIBLE #764	TOWN OF WEST SENECA	5.2	GENERAL SYSTEM PU
8327239	3436	3103703101		108		REYNOLDS #1873	TOWN OF DARIEN	0.6	GENERAL SYSTEM PU
8327226	3312	3102903058		108		RHINEHART #1843	TOWN OF ALDEN	1.0	GENERAL SYSTEM PU
8327257	3307	3100913359		108		SAEGER #1698	TOWN OF DAYTON	2.3	GENERAL SYSTEM PU
8327258	3306	3100913360		108		SAEGER #1699	TOWN OF DAYTON	2.3	GENERAL SYSTEM PU
8327309	3351	3101303175		108		SALHOFF #2026	TOWN OF POMFRET	1.8	GENERAL SYSTEM PU
8327253	3323	3103729320		108		SCHWARTZ #1835	TOWN OF PEMBROKE	0.3	GENERAL SYSTEM PU
8327234	3404	3102913492		108		SHERMAN #1160	TOWN OF COLLINS	0.5	GENERAL SYSTEM PU
8327260	3304	3100913362		108		SIGLER #1701	TOWN OF DAYTON	2.3	GENERAL SYSTEM PU
8327252	3399	3103760333		108		SMITH FARM #1972	DARIEN	1.4	GENERAL SYSTEM PU
8327245	3444	3102903063		108		ST GEORGE FARM #1903	TOWN OF ALDEN	0.6	GENERAL SYSTEM PU
8327236	3406	3102914525		108		STEARNS #1178	TOWN OF NORTH COLLINS	0.3	GENERAL SYSTEM PU
8327330	3416	3100360363		108		STEBBINS #2131	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327317	3398	3103702199		108		SWEETING #1959	TOWN OF STAFFORD	1.7	GENERAL SYSTEM PU
8327313	3439	3101360328		108		THOMAS #1878	TOWN OF HANOVER	2.6	GENERAL SYSTEM PU
8327295	3421	3102904855		108		VACCO #2365-I	TOWN OF HAMBURG	4.6	GENERAL SYSTEM PU
8327298	3424	3100360354		108		VAN FLEET #2112	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327299	3425	3100360355		108		VAN FLEET #2113	TOWN OF ALMA	7.2	GENERAL SYSTEM PU
8327306	3348	3101360336		108		VERTON #2028	TOWN OF ARKWRIGHT	1.7	GENERAL SYSTEM PU
8327255	3368	3102903713		108		WAHL #616-1	TOWN OF PORTERVILLE	9.7	GENERAL SYSTEM PU
8327288	3341	3101302854		108		WALKOWSKI #2005	TOWN OF SHERIDAN	5.2	GENERAL SYSTEM PU
8327248	3418	3102960319		108		WARNER #1391	TOWN OF NORTH COLLINS	1.1	GENERAL SYSTEM PU
8327229	3226	3102914765		108		WEBER #1184	TOWN OF NORTH COLLINS	1.1	GENERAL SYSTEM PU
8327325	3411	3102960320		108		WEBER #1511	TOWN OF WALES	1.3	GENERAL SYSTEM PU
8327268	3295	3100913364		108		WELLS #1688	TOWN OF PERSIA	2.3	GENERAL SYSTEM PU
8327328	3414	3102904182		108		ZIMMER #1798	TOWN OF COLDEN	7.2	GENERAL SYSTEM PU
8327289	3342	3101302126		108		ZOLNOSKI #2009	TOWN OF SHERIDAN	5.2	GENERAL SYSTEM PU
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	03/14/83	JA: NY			
8327499	3386	3106960330		108		ABBEY #1924	TOWN OF RICHMOND	1.3	GENERAL SYSTEM PU
8327492	3313	3101360323		108		ADAMCZAK FARM #1841	SHERIDAN	1.3	GENERAL SYSTEM PU
8327496	3395	3101301194		108		ALDRICH FARM #1958	TOWN OF SHERIDAN	3.6	GENERAL SYSTEM PU
8327505	3354	3102960314		108		BOARDWAY #691	TOWN OF NORTH COLLINS	1.2	GENERAL SYSTEM PU
8327476	3287	3102913338		108		BRANT #1784	TOWN OF COLDEN	1.9	GENERAL SYSTEM PU
8327484	3356	3102903473		108		BROOKS #432	TOWN OF COLLINS	2.5	GENERAL SYSTEM PU
8327472	3291	3102913467		108		BROOKS #659	TOWN OF COLLINS	0.4	GENERAL SYSTEM PU
8327468	3364	3102908193		108		BUTLER #40	TOWN OF ORCHARD PARK	0.9	GENERAL SYSTEM PU
8327471	3298	3102914908		108		CARBONE #1245	TOWN OF N COLLINS	0.5	GENERAL SYSTEM PU
8327502	3431	3103760326		108		COBLENTZ FARM #1864	DARIEN	0.9	GENERAL SYSTEM PU
8327480	3193	3102900000		108		CURRY FARM #46	TOWN OF EVANS	0.6	GENERAL SYSTEM PU
8327493	3400	3101302859		108		DEERING FARM #1975	TOWN OF SHERIDAN	2.7	GENERAL SYSTEM PU
8327497	3388	3101302740		108		FRACASSO FARM #1941	TOWN OF SHERIDAN	1.1	GENERAL SYSTEM PU
8327482	3191	3102900000		108		FURMAN FARM #1774	TOWN OF COLDEN	1.4	GENERAL SYSTEM PU
8327466	3360	3102901611		108		GOODELL #206	TOWN OF NORTH COLLINS	3.5	GENERAL SYSTEM PU
8327500	3326	3106960337		108		GRISWOLD #2034	TOWN OF BRISTOL	6.5	GENERAL SYSTEM PU
8327501	3314	3103760322		108		GRUDZIEN FARM #1838	PEMBROKE	0.3	GENERAL SYSTEM PU
8327483	3194	3102900000		108		HEISSER FARM #1363	TOWN OF HAMBURG	3.8	GENERAL SYSTEM PU
8327498	3393	3101302136		108		KACZOR FARM #1950	TOWN OF SHERIDAN	3.1	GENERAL SYSTEM PU
8327470	3366	3102901692		108		LANGENDORFER #127	TOWN OF ELMA	3.9	GENERAL SYSTEM PU
8327481	3192	3102900000		108		LAUGHLIN FARM #1824	TOWN OF ALDEN	1.3	GENERAL SYSTEM PU
8327495	3396	3101302829		108		MATESEVAK FARM #1966	TOWN OF SHERIDAN	5.7	GENERAL SYSTEM PU
8327504	3353	3101302785		108		MCINTYRE FARM #1990	TOWN OF SHERIDAN	0.9	GENERAL SYSTEM PU
8327491	3339	3101302139		108		METZGER FARM #1995	TOWN OF SHERIDAN	1.6	GENERAL SYSTEM PU
8327479	3283	3103714514		108		MILLIGAN #2020	TOWN OF PAVILION	0.9	GENERAL SYSTEM PU
8327494	3398	3101302796		108		MINER FARM #1971	TOWN OF SHERIDAN	2.4	GENERAL SYSTEM PU
8327503	3403	3103760369		108		MOONEY #1893	TOWN OF BETHANY	0.1	GENERAL SYSTEM PU
8327477	3285	3102913466		108		OTTENBACKER #651	TOWN OF COLLINS	1.6	GENERAL SYSTEM PU
8327475	3288	3103714515		108		PESTLE #1993	TOWN OF PAVILIAN	1.5	GENERAL SYSTEM PU
8327467	3363	3102908195		108		SOWLE #16	TOWN OF HAMBURG	2.5	GENERAL SYSTEM PU
8327478	3284	3102913341		108		SPENCER #1775	TOWN OF COLDEN	0.9	GENERAL SYSTEM PU
8327486	3387	3101302937		108		SPURR FARM #1980	ARKWRIGHT	1.6	GENERAL SYSTEM PU
8327485	3357	3102914506		108		STEARNS #265	TOWN OF NORTH COLLINS	2.0	GENERAL SYSTEM PU
8327488	3345	3101301469		108		STEFFAN FARM #2008	ARKWRIGHT	8.2	GENERAL SYSTEM PU
8327474	3289	3102914508		108		STEPHAN #308	TOWN OF LANCASTER	4.4	GENERAL SYSTEM PU
8327490	3347	3101301472		108		SZYDLO FARM #2019	ARKWRIGHT	0.4	GENERAL SYSTEM PU
8327487	3389	3101301526		108		VANARSDALE FARM #1984	ARKWRIGHT	1.4	GENERAL SYSTEM PU
8327489	3346	3101301477		108		VELLONE FARM #2012	ARKWRIGHT	0.8	GENERAL SYSTEM PU
8327469	3365	3102903357		108		VOGEL #124	TOWN OF WEST SENECA	5.2	GENERAL SYSTEM PU
8327506	3355	3102907237		108		WAGNER #443	TOWN OF NORTH COLLINS	0.6	GENERAL SYSTEM PU
8327473	3290	3103714516		108		WILSON #1982	TOWN OF PAVILION	2.0	GENERAL SYSTEM PU
-NRM PETROLEUM CORPORATION				RECEIVED:	03/11/83	JA: NY			
8327384	3850	3100916786		107-TF		ANDREWS #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327378	3854	3100916874		107-TF		ARCHER "A" #2	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327387	3844	3100916941		107-TF		BROWN A #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327381	3847	3100916990		107-TF		ECCLES #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327398	3839	3100916940		107-TF		FLEISHMAN #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327402	3843	3100916722		107-TF		FOY #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327386	3852	3100916723		107-TF		MEADE #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327380	3846	3100916724		107-TF		O'NEILL #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327415	3109	3100916233		107-TF		ORMAND #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327399	3840	3100916725		107-TF		ORMAND #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327400	3841	3100916336		107-TF		SANDBERG #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327382	3848	3100916264		107-TF		SENN #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327379	3845	3100916810		107-TF		SENN #2	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327357	3111	3100916341		107-TF		SHIELDS-BISSELL UNIT #1	RANDOLPH	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8327383	3849	5100916842		107-TF		SMITH "B" #2	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327407	3110	5100916247		107-TF		SMITH-WAITE UNIT "A" #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327333	3853	5100916390		107-TF		STONE #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327401	3842	5100916785		107-TF		VAN CUREN #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327414	3112	5100916379		107-TF		VISKER #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8327385	3851	5100916987		107-TF		WAGNER #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
-P & S DRILLING INC				RECEIVED:	03/14/83	JA: NY			
8327465	3565	3102913722	D	107-TF		DABB #1	MARILLA	2.4	NATIONAL FUEL GAS
-R H HENLEY & P G MURPHY				RECEIVED:	03/11/83	JA: NY			
8327349	4923	3102914325		108		H M FOUNDATIONS INC #1	AKRON	0.0	NATIONAL FUEL GAS
-RESOURCE EXPLORATION INC				RECEIVED:	03/11/83	JA: NY			
8327347	4915	3101312362		103		CAVE #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8327346	4914	3101312362		107-TF		T CAVE #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
-SEIS-EX GEOPHYSICAL LTD				RECEIVED:	03/11/83	JA: NY			
8327373	3164	3101317126		107-TF		SEIS-EX LANGLESS #1	WILDCAT	30.0	COLUMBIA GAS TRAN
-TRAHAN PETROLEUM INC				RECEIVED:	03/11/83	JA: NY			
8327391	3975	3100917155		107-TF		BEAVER #1 31-009-17155	WILDCAT	36.0	COLUMBIA GAS TRAN
8327392	3979	3101315751		107-TF		CLEMENTE NY #28 31-013-15751	LEON	36.0	COLUMBIA GAS TRAN
8327360	3509	3100917197		107-TF		COWEN #4 31-009-17197	WILDCAT	36.0	COLUMBIA GAS TRAN
8327356	4258	3101317696		107-TF		DELARA #1 31-013-17696	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8327355	4257	3101317154		107-TF		GLEASON #1 31-013-17154	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8327393	3973	3101312497		107-TF		HESS NY #40 31-013-12497	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8327368	2253	3101316254		107-TF		J & H DAVIS #1 31-013-16254	ELLINGTON	36.0	COLUMBIA GAS TRAN
8327395	3971	3101317153		107-TF		MELBY #1 31-013-17153	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8327398	4256	3101317783		107-TF		NEWCOMB #2 31-013-17783	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8327416	3514	3101312515		107-TF		SCHIMEK NY 44 31-013-12515	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8327394	3969	3101317173		107-TF		SCHULZ #2 31-013-17175	ELLINGTON	36.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				RECEIVED:	03/11/83	JA: NY			
8327327	3260	3100916891		107-TF		EUGENE SPAULDING #1 NY-8009	RANDOLPH TOWN	0.0	COLUMBIA GAS TRAN
8327375	3262	3101316445		107-TF		FRANK B MARSH #1 NY-0004	POLAND TOWN	0.0	COLUMBIA GAS TRAN
8327374	3261	3100917054		107-TF		HARRY U WALTERS #1 NY-0001	RANDOLPH TOWN	0.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	03/11/83	JA: NY			
8327417	3158	3101316834		107-TF		BENEDICT #2	GERRY	20.0	COLUMBIA GAS TRAN
-URBAN-SNOW GAS CO INC				RECEIVED:	03/11/83	JA: NY			
8327404	3519	3101105000		102-4		J L RIPLEY - #1	BLUE TAIL ROOSTER	0.0	TENNESSEE GAS PIP
8327406	3518	3101111129		102-4		JOHN JOSHANSKI - UNIT #9	JOHN JOSHANSKI	0.0	TENNESSEE GAS PIP
8327405	3517	3101106780		102-4		ROBERT COLE - #1	BLUE TAIL ROOSTER	0.0	TENNESSEE GAS PIP
-US ENERGY DEVELOPMENT CORP				RECEIVED:	03/11/83	JA: NY			
8327339	4928	3101317850		103		KOWALSKI #1	GERRY	20.0	COLUMBIA GAS TRAN
8327337	4929	3101317550		107-TF		KOWALSKI #1	GERRY	20.0	COLUMBIA GAS TRAN
8327418	3147	3101316290		107-TF		ZAHN #1	GERRY	20.0	COLUMBIA GAS TRAN
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-VICTORY DEVELOPMENT CO				RECEIVED:	03/10/83	JA: PA			
8327424	19175	3702120186		103		DEFENSE & EMERGENCY POLICE #3	SUSQUEHANNA	36.0	COLUMBIA GAS TRAN
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UTAH DIVISION OF OIL,GAS, & MINING									
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-ODEGARD RESOURCES INC				RECEIVED:	03/18/83	JA: UT			
8327423	K-146-2	4301921220		107-TF		STATE 16-9	WILDCAT	350.0	
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
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-AMINOIL USA INC				RECEIVED:	03/11/83	JA: MT 5			
8327438	M 302-2	2508321587		102-4		FEDERAL #1-2	RIDGELAWN FIELD	75.0	MONTANA DAKOTA UT
-FALCON-COLORADO EXPLORATION INC				RECEIVED:	03/11/83	JA: MT 5			
8327430	W 253-2	2507121720		108		MILLER 1-25	SWANSON CREEK	10.0	MONTANA-DAKOTA UT
-JERRY CHAMBERS EXPLORATION CO				RECEIVED:	03/11/83	JA: ND 5			
8327444	ND 309-2	3300700780		102-2		BLACKTAIL FEDERAL #2-28	ELKHORN RANCH	1.0	NORTHERN GAS PROD
-KOCH INDUSTRIES INC				RECEIVED:	03/11/83	JA: ND 5			
8327434	ND 296-2	3300700624		102-2		FEDERAL #13-22	WILDCAT	70.0	MONTANA-DAKOTA UT
-NUCORP ENERGY INC				RECEIVED:	03/11/83	JA: ND 5			
8327456	ND 322-2	3300700768		102-2		FEDERAL #31-1	ELKHORN RANCH	11.0	KOCH HYDROCARBON
8327437	ND 300-2	3300700725		102-2		FEDERAL 7-1	ELKHORN RANCH	30.0	KOCH HYDROCARBON
-TENNECO OIL COMPANY				RECEIVED:	03/11/83	JA: ND 5			
8327446	ND 311-2	3300700793		102-2		HAMILTON USA #4-29	ELKHORN RANCH	45.0	MONTANA-DAKOTA UT
-BELCO PETROLEUM CORPORATION				RECEIVED:	03/11/83	JA: WY 5			
8327429	W 209-2	4903520624		102-4		C 76-25	C-56 AREA (KMV)	0.0	NORTHWEST PIPELIN
8327461	W 327-2	4903520662		103		S 32-33	MESAVERDE	0.0	NORTHWEST PIPELIN
8327447	W 312-2	4902320489		107-TF		STEAD CANYON UNIT 8-11	STEAD CANYON UNIT	0.0	NORTHWEST PIPELIN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	03/11/83	JA: WY 5			
8327432	W 292-2	4903721971		103		CPC ARCH UNIT 110	PATRICK DRAW	12.0	COLORADO INTERSTA
8327445	W 310-2	4903721859		107-TF		CPC FEDERAL 1-6 #1	BRUFF	1020.0	MOUNTAIN FUEL SUP
8327433	W 293-2	4903721859		103		CPC FEDERAL 1-6 #1	BRUFF	1020.0	MOUNTAIN FUEL SUP
-CHEVRON U S A INC				RECEIVED:	03/11/83	JA: WY 5			
8327431	W 291-2	4904120338		102-2		PAINTER RESERVOIR UNIT 44-6A	EAST PAINTER	1277.5	
-CIG EXPLORATION INC				RECEIVED:	03/11/83	JA: WY 5			
8327460	W 326-2	4901321028		105		LONG BUTTE - FEDERAL #4 (3-38-91)	LONG BUTTE-CODY	734.0	COLORADO INTERSTA
-ENERGY RESERVES GROUP INC				RECEIVED:	03/11/83	JA: WY 5			
8327462	W 328-2	4903721637		107-TF		NICKEY UNIT #2-24	WILDCAT	91.4	COLORADO INTERSTA
-HPC INC				RECEIVED:	03/11/83	JA: WY 5			
8327435	W 297-2	4904521558		103		BRODA FEDERAL #2	WILDCAT	12.0	PHILLIPS PETROLEU
8327453	W 318-2	4903721537		107-TF		GREAT DIVIDE UNIT #5	HAY RESERVOIR	794.4	PANHANDLE EASTERN
8327454	W 319-2	4903721626		107-TF		GREAT DIVIDE UNIT #7	GREAT DIVIDE UNIT ARE	545.0	PANHANDLE EASTERN
8327451	W 316-2	4903721677		107-TF		GREAT DIVIDE UNIT #8	GREAT DIVIDE	150.0	PANHANDLE EASTERN
8327452	W 317-2	4903721791		107-TF		GREAT DIVIDE UNIT #9	GREAT DIVIDE	3.4	PANHANDLE EASTERN
8327448	W 313-2	4900720476		107-TF		PORTER FEDERAL #1	WILDCAT	56.0	COLORADO INTERSTA
8327449	W 314-2	4903721685		107-TF		TRITON UNIT #2	TRITON	440.0	PANHANDLE EASTERN
8327450	W 315-2	4903721860		107-TF		TRITON UNIT #6	TRITON	480.0	PANHANDLE EASTERN
-MARATHON OIL COMPANY				RECEIVED:	03/11/83	JA: WY 5			
8327440	W 304-2	4902921041		103		TEXAS SOKNERS #22 (EMBAR AND TENSL)	OREGON BASIN	2.7	COLORADO INTERSTA
-MONSANTO COMPANY				RECEIVED:	03/11/83	JA: WY 5			
8327436	W 299-2	4901321161		107-DP		QUINCY #2-34	BATTLE BUTTE UNIT	1149.0	COLORADO INTERSTA
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	03/11/83	JA: WY 5			
8327442	W 307-2	4900526583		102-2		THUNDER CREEK FED FF #1	SCHOOL CREEK	43.0	PANHANDLE EASTERN
8327443	W 308-2	4900526297		102-3		THUNDER CREEK FED K#4	SCHOOL CREEK	28.8	PANHANDLE EASTERN
8327441	W 306-2	4900526569		102-2		THUNDER CREEK FEDERAL R#4	SCHOOL CREEK	28.4	PANHANDLE EASTERN
-SNYDER OIL CO				RECEIVED:	03/11/83	JA: WY 5			
8327458	W 324-2	4900720738		107-TF		CIGE FEDERAL 1A-26-14-92 LEWIS COMP	ROBBERS GULCH	300.0	COLORADO INTERSTA
8327459	W 325-2	4900720700		107-TF		CIGE FEDERAL 1A-36-14-92 LEWIS COMP	ROBBERS GULCH	128.0	NORTHWEST PIPELIN
8327457	W323-2	4900720779		107-TF		MARATHON FEDERAL 1A-13-14-93 LEWIS	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
-W A MONCRIEF JR				RECEIVED:	03/11/83	JA: WY 5			
8327439	W 303-2	4901320968		107-DP		STEFFEN HILL UNIT #21-1	LYSITE	103.3	MICHIGAN WISCONSI
-WOODS PETROLEUM CORPORATION				RECEIVED:	03/11/83	JA: WY 5			
8327455	W 320-2	4900526374		103		PINE TREE UNIT 29-38	PINE TREE	1.0	WESTERN GAS PROCE

[FR Doc. 83-9518 Filed 4-11-83; 8:45 am]

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Tuesday
April 12, 1983

Part V

Department of the Treasury

Comptroller of the Currency

National Bank Lending Limits

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 3, 6, 7, and 32

[Docket No. 83-16]

National Bank Lending Limits

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule with request for comments.

SUMMARY: The Office of the Comptroller of the Currency is adopting final amendments to its regulations and interpretive rulings regarding national bank lending limits. The final rules implement amendments to R.S. 5200 (12 U.S.C. 84) made by Congress in Section 401(a) of Pub. L. 97-320 (Oct. 15, 1982). The regulations were published for comment on December 21, 1982 (47 FR 56862). The regulations generally: (1) Define terms used in the statute; (2) set forth rules under which national banks may make loans to single borrowers of up to an additional 10 percent of their capital and surplus when such loans are fully secured by "readily marketable collateral"; (3) set forth rules for combining loans to separate persons for purposes of the lending limits; (4) clarify the Office's interpretation of the applicability of the exceptions to the lending limits; (5) establish transitional rules for loans made prior to the regulation's effective dates; and (6) incorporate miscellaneous interpretations of the lending limit provisions.

DATES: The effective date of the amendments to the following provisions is April 14, 1983:

12 CFR Part 3
12 CFR Part 6
12 CFR Part 7:
Sections 7.1110 through 7.1120
Section 7.1125(a)
Sections 7.1130 through 7.1310(b)
Sections 7.1500 through 7.1630
12 CFR Part 32:
Sections 32.1 through 32.4
Sections 32.6 through 32.7
Sections 32.102 through 32.111.

The effective date of the amendments to the following provisions is June 14, 1983:

12 CFR Part 7:
Section 7.1125 (b) through (c).
Sections 7.1310(c) through 7.1330
12 CFR Part 32:
Section 32.5
Section 32.101

Comments on § 32.5 are specifically requested and must be received by May 12, 1983.

ADDRESS: Comments should be sent to Docket No. 82-25, Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW., Washington, D.C. 20219, Attention: C. Christine Jones. Telephone (202) 447-1800. Comments will be available for inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Carol M. Beaumier, Manager, International Examinations ((202) 447-1747); Howard J. Finkelstein, Attorney, Legal Advisory Services Division ((202) 447-1880); Claire Owen, National Bank Examiner, Commercial Examinations ((202) 447-1164). These are not toll free numbers.

SUPPLEMENTARY INFORMATION: Section 401(a) of Pub. L. 97-320 (Oct. 15, 1982) made a number of substantive changes to R.S. 5200 (12 U.S.C. 84), including the following:

(a) The lending limit generally applicable to national banks was changed from 10 percent of capital and surplus to 15 percent.

(b) A new exception to the lending limits was created which allows national banks to lend an additional 10 percent of their capital and surplus to one borrower if such loan is fully secured by "readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding * * *"

(c) The term "loan and extension of credit" was substituted for "obligation" and the term was defined for the first time.

(d) The term "person" was defined for the first time. Explicitly included in the definition were sovereign governments, their agencies, subdivisions, and instrumentalities.

(e) The statute's fourteen exceptions were modified and simplified; some were eliminated.

(f) An additional exception was added governing loans or extensions of credit secured by deposits in the lending bank.

(g) Rules regarding combining loans to individual borrowers were eliminated from the statute. Instead, the Comptroller was explicitly empowered to make rules in this area.

(h) The Comptroller was granted authority to determine when a commitment by a national bank to advance funds is to be considered a loan or extension of credit subject to the lending limits and to "prescribe rules and regulations to administer and carry out the purposes of [Section 84], including rules or regulations to define or further define terms used in [Section 84] and to establish limits or requirements other than those specified in [Section 84] for particular classes or categories of loans or extensions of credit."

Due to the amendment of the statute, it was necessary for the Comptroller both to amend the Office's existing regulations under Section 84 and to promulgate new regulations to implement the purposes of the statute. Proposed regulations were published for comment on December 21, 1982 (47 FR 56862). The original comment period was extended for an additional 14 days, until February 18, 1983 (48 FR 4479). On March 8, 1983, the comment period was reopened for an additional 14 days, until March 22, 1983 (48 FR 9659).

There were 202 comments on the proposed regulations. The majority came from national banks and their representatives. The comments covered a wide range of issues. The Office has carefully reviewed all comments and has adopted a number of recommendations in the final regulation.

Since the revised Section 84 will become effective on April 14, 1983, it is necessary for the regulation to have an effective date of April 14, 1983. *See* 5 U.S.C. 553(d)(3).

An explanation of each of the changes to the regulations made by the final amendments and a discussion of the comments received are set forth below.

1. Section 32.1—Authority, purpose, and scope

a. *Loans by foreign subsidiaries.* In the Notice of Proposed Rulemaking, the Office stated that it was considering a provision in the regulations which would have provided that the limitations of Section 84 are applicable to loans made by a national bank's foreign subsidiaries and Edge Act Corporations. Such an application would merely elaborate upon the Federal Reserve Board's Regulation K, which already requires the liabilities of any one person to a majority-owned foreign bank or Edge Act Corporation subsidiary to be combined with liabilities of the same person to the member bank. Restating the Regulation K requirement in Section 84 would have clearly necessitated applying combination rules to the loans of foreign subsidiaries and Edge Act Corporations.

Eleven comments were received regarding this issue. One comment favored applying the Section 84 lending limits to all national bank subsidiaries; ten comments specifically opposed the application of lending limits to foreign bank subsidiaries. These comments basically argued that imposition of the

lending limits on foreign subsidiaries would put the banks at a competitive disadvantage in the foreign markets.

The Office has considered the comments and believes that from a prudential standpoint, loans of foreign subsidiaries should be combined with those of the parent bank. However, the Office decided that application of Section 84 to these institutions would be inappropriate at this time and that further study is warranted.

b. *Loans by domestic operating subsidiaries.* A number of commenters requested that the Office explicitly clarify its long-held position (see 12 CFR 7.7376(d)(2) (1982)) that loans by a national bank's domestic operating subsidiaries are to be consolidated with loans by the bank for purposes of Section 84. The first sentence of revised § 32.1(c) now makes this clear.

c. *Loans to affiliates.* Eight comment letters raised an issue not explicitly mentioned in the Notice of Proposed Rulemaking. The commenters questioned whether the Section 84 lending limits apply to loans by national banks to their "affiliates," as that term is defined in Section 23A of the Federal Reserve Act (12 U.S.C. 371c). In the past, the Office has held that Sections 84 and 23A are both applicable to loans to national bank affiliates. The comment letters, however, noted that the legislative history of Section 410 of the Garn-St Germain Depository Institutions Act indicates a Congressional intent that Section 23A, rather than Section 84, should be the primary law governing loans to bank affiliates.

The Office has examined the legislative history of section 410 and is unable to conclude that Congress intended to preempt Section 84 with regard to affiliate lending. The Office is satisfied, however, that the current Section 23A, as amended, provides an adequate framework for regulation of loans to affiliates and that application of Section 84 to these loans at this time is unnecessary. The final regulations reflect this view.

2. Section 32.2—Definitions

a. *"Loans and extensions of credit."* The proposed definition followed the statute's general definition. Comment was specifically requested "on whether the definition * * * should be expanded and on whether various transactions should be dealt with specifically."

Eighteen comments dealt with proposed § 32.2(a). Twelve comments favored the proposed definition and did not advocate a listing of specific transactions which constituted "loans and extensions of credit." However, eleven commenters believed that the proposed definition should be clarified; generally, the commenters suggested that certain transactions should be excluded from the definition of "loans and extensions of credit." Among the transactions specified in the letters were: interbank deposits and other interbank funding mechanisms; purchase money mortgages for bank-owned real estate; commercial letters of credit; and third-party pledges where recourse is limited to the pledged collateral. Most of these transactions are the subject of interpretive letters written by the Office over the years.

The Office agrees with the majority of the comments that detailed descriptions of individual transactions need not be included in the definition. If dealt with at all in the regulation, it is believed that these transactions should be the subject of Interpretations. However, the Office will defer any new Interpretations to a later date. Letter rulings regarding specific types of transactions written by the Office under the pre-1983 statute will continue to remain in effect.

The Office also added a provision to the definition which specifically incorporates its previous positions concerning the obligations of makers and endorsers arising from the discounting of commercial paper.

b. *"Person."* Two commenters were received on the proposed definition of "person," which parallels the statutory definition. One commenter suggested that the definition specifically include not-for-profit corporations. The Office has incorporated this suggestion in the final regulation.

Another commenter suggested that the definitional section be expanded to include the rules for combining loans to separate borrowers. The Office, however, believes that the combination rules are best dealt with in a separate section.

c. *"Contractual commitment to advance funds"—fee paid commitments.* The Notice of Proposed Rulemaking specifically solicited comments on the question of whether "fee paid commitments to lend or undisbursed loan funds [should] be considered loans or extensions of credit * * *." The Office received 37 comments addressing this issue, 27 of which advocated the position reflected in the proposed regulation, *i.e.*, that commitments and undisbursed loan funds should not be subject to the lending limits until disbursed.

Almost all of the commenters agreed that national banks should monitor the amount of their commitments to one borrower carefully in order that a violation not result when a commitment is drawn upon. Some commenters felt that including commitments within a bank's lending limit would act as a more effective constraint on the banks. The majority of commenters, however, argued that bank internal controls to monitor disbursements of committed loans were an effective constraint.

The Office has decided for the present time to retain the provision in the proposed regulations under which undisbursed loan funds and commitments are not considered loans for lending limit purposes. Banks should, however, institute adequate internal procedures to monitor commitments and to insure that disbursals of funds pursuant to commitments do not exceed the lending limits at any time.

d. *"Contractual commitment to advance funds"—other issues.* A number of commenters objected to the inclusion of various specific types of transactions within the definition of "contractual commitment to advance funds." Four comments raised the problem of guarantees by national banks of the liabilities of wholly-owned foreign subsidiary banks or Edge Act Corporations. These commenters were concerned because the guarantees at issue are often a prerequisite to the establishment of the foreign subsidiary or the transaction of international business. Inasmuch as the Office has decided at this time not to apply Section 84's lending limits to loans by a national bank to its affiliates (as defined in 12 U.S.C. 371c), operating subsidiaries, and Edge Act and Agreement Corporations, these guarantees will not be subject to Section 84.

A number of commenters suggested that commercial letters of credit be expressly exempted from the definition of "contractual commitment to advance funds." Traditionally, commercial letters of credit have not been included as loans within a national bank's lending limit. Section 32.2(d) now clarifies that commercial letters of credit are not considered "loans and extensions of credit" when issued.

A number of commenters objected to the fact that, under the proposed regulations, "steamship guarantees," or other similar instruments, would be considered loans for lending limit purposes. Steamship guarantees, also known as "steamship indemnities," "shipside bonds," and "bill of lading guarantees," are instruments issued to carriers of merchandise holding the carriers harmless for damages resulting from release of goods to an importer without the presentment of proper or complete documents of title. In response to these comments, the Office has taken the phrase "letters of indemnity" out of

the proposed definition of "contractual commitment to advance funds." It should be noted, however, that should the bank be forced to make payments under the letter of indemnity, such payments, when made, would be included as loans to the bank's customer.

3. Section 32.3—General limitation

There were no comments on this section and it has been adopted as proposed.

4. Section 32.4—Additional general limitation: Loans fully secured by readily marketable collateral

Forty-four comments were received on this section. The comments were largely consistent in opposing the perceived restrictiveness of the proposal. Specifically, the letters received objected to the 15 percent margin and the monitoring requirements. Several letters suggested that the required margin should be smaller or that the margin should be left to the bank's discretion. Commenters also suggested that the period for curing a collateral shortfall be extended beyond five business days. Some respondents pointed out that, under some circumstances, it will be impossible to sell the collateral; they felt this possibility should be clearly addressed in the regulation. Others also suggested that given a "good faith" effort to comply, a violation of law should not result.

The final regulation adopts the recommendation that the size of the collateral margin be left to the bank's discretion. In addition, the final regulation does not prescribe any specific requirements for monitoring collateral value other than requiring that each bank adopt adequate procedures to ensure sufficient collateral coverage. After much consideration and discussion, however, the Office has decided to retain the provision in the proposed regulation under which failure to "cure" a collateral shortfall within five business days would result in a violation of law. It is the Office's opinion that the acceptable types of collateral share characteristics which should, barring extreme circumstances, allow for their sale within five business days. Furthermore, the statutory language indicates a clear Congressional intent that loans based on this subsection be fully secured at all times. The five business day grace period in the regulation will assist banks in administering loans under this subsection.

The final regulation also incorporates the suggestion of one commenter who noted that it was inappropriate to require price quotations to be based on "bid and ask prices," since this requirement would bar stocks traded on the major stock exchanges. The "bid and ask" language has, therefore, been amended to "quotations based on actual transactions on an auction or a similarly available daily bid and ask price market."

Several letters responded to the Office's request in the Notice of Proposed Rulemaking for comments suggesting other types of collateral which met the characteristics outlined for this exception. Of the suggestions offered, the Office believes the following additional items meet the standards outlined in the Notice: commercial paper, bankers' acceptances, bullion, and money market and mutual funds which issue shares in which banks may perfect a security interest. Accordingly, the final regulation has been amended to include these types of collateral. Banks should be aware that other existing laws may affect the ability of a bank or borrower to take full advantage of this additional 10 percent authority. Two such laws are Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) and the Federal Reserve Board's Regulation U (12 CFR Part 221).

5. Section 32.5—Combining loans to separate borrowers

a. *General.* Proposed § 32.5 generated more comment letters than any other section of the proposed regulation. Approximately 135 persons or organizations, including approximately 100 banks and holding companies, commented on various aspects of the proposal; most of the commenters were opposed to the proposed rules for combining loans. Before discussing the individual segments of the proposal and the final rules, a number of general comments are in order.

First, some commenters argued that the Comptroller lacked the authority, under the amended Section 84, to promulgate regulations under which loans would be combined on a *per se* basis. These commenters argued that Section 84(d)(2), which grants the Office "authority to determine when *a loan* putatively made to a person shall * * * be attributed to another person" (emphasis added), was intended to allow the Office to combine individual loans at individual banks during the examination process but not to mandate combination by regulation. The Office rejects these arguments. Nothing in the legislative history of amended Section 84 indicates that Congress intended such a radical revision of the manner in which the combination rules have operated for more than a century. The interpretation of Section 84(d)(2) urged by these commenters would, in addition, create a situation wholly undesirable for both bankers and the Office. That is, if combination of loans were to be done only on a *post hoc* basis, bankers would have little, if any, certainty as to how to operate to avoid violations of Section 84 and the attendant possibility of directors' liability. The Office, in turn, would find itself faced with an endless stream of requests for opinion letters from bankers wishing to operate cautiously; examiners would be equally overburdened in their attempts to judge each set of circumstances on its facts. The Office, therefore, agrees with the large majority of commenters that some *per se* combination rules are necessary and were within the intent of Congress.

A large number of commenters seemed to have misinterpreted the goals of the Office in promulgating the proposed combination rules. These commenters seemed to feel that the Office was deliberately reversing the "deregulatory" trend of the Garn-St Germain Act, by, in effect, constricting the lending powers of national banks. The Office believes that the reason for much of the harsh criticism found in the comment letters is that many bankers were unaware of prior Office policy in many areas. As was noted in the Notice of Proposed Rulemaking, the law regarding combining loans to separate borrowers, which has evolved through administrative practice and interpretive letters, had, over the years, been inconsistently applied and become overly complicated. The proposed regulations attempted to correct this condition by setting forth clear rules which were internally consistent and were logical from both a legal and financial perspective.

The Office also disagrees with those commenters who argued that the proposed regulations would have deprived national banks of the benefit of the increased lending limits conferred on them by the Garn-St Germain Act. The proposed rules were admittedly stricter than those in place prior to the Act. However, based on its examining experience, the Office believes that the proposed regulations would only have had an impact on a small minority of banks. On the other hand, the increase in the lending limits from 10 percent to 15 percent (and, in some cases, to 25 percent) will have a beneficial effect on the lending ability of all national banks.

It should also be noted that the Office believes that developing meaningful rules for combining loans to separate but related borrowers is an important

aspect of its bank supervision function. Historically, there has been a direct correlation between problem banks and concentrations of loans to related entities. In a significant number of cases, these concentrations were structured so as to come within various loopholes in the law for combining loans to separate borrowers. The final regulations represent an attempt to eliminate many of these loopholes while at the same time accommodating the needs of prudent lenders who might be unnecessarily constrained by overly harsh rules.

Finally, the Office appreciates the serious nature of the comments on the proposed regulations, especially those comments which argued that the proposed regulations would have had a significant adverse impact on banks. The Office also appreciates the fact that the final rules might significantly alter the day-to-day planning functions of bank officials. The Office has taken these concerns into account and has made significant revisions in the final rules. In addition, the Office has postponed the effective date of the combination rules for 60 days. During the 60-day period, the Office will give further consideration to the final rules, especially insofar as they might impact on bank operations. To assist the Office in this process, the Office invites bankers' comments on the impact the final rule will have on bank operations. Specifically, the Office would appreciate comments which present concrete factual data concerning the impact of the final rules.

b. *"Common enterprise."* Comments from approximately 45 banks and 10 other organizations were received on the proposed paragraph defining "common enterprise." Despite the Office's statement in the Notice of Proposed Rulemaking that "the defined characteristics of common enterprise will not be applied rigidly," a majority of the commenters on this paragraph read the proposed tests literally and went on to show how the rules could be applied to situations where combination would be clearly unwarranted. A number of commenters noted that the overbreadth which characterized the proposed paragraph would put an enormous administrative burden on banks that wished to operate cautiously. These commenters noted that, under the proposed tests, they would be forced to inspect the financial records of wholly unrelated borrowers to see whether one of the tests had been met.

The Office appreciates the concerns of these commenters. While the proposed rules were meant to be applied flexibly, they might, had they been adopted, have had an adverse effect on loan officers and directors due to their phraseology. The Office has, therefore, substantially modified the language of the "common enterprise" tests in the final regulation. In so modifying the tests, the Office has attempted to: (i) Set forth rules which are easily understood and applied; (ii) provide banks with some assurance that the rules will not be applied to situations where common sense dictates that loans to separate borrowers need not be combined; and (iii) provide some flexibility to cover situations which do not meet the strict language of the regulation. As was noted in the Notice of Proposed Rulemaking, the Office over the years has issued numerous opinion letters on whether particular loans met the "common enterprise" tests. No set of rules could possibly cover all of these situations. The final regulations, however, do attempt to codify previously stated positions taken by the Office on situations which recur with some degree of frequency.

The "common enterprise" tests, as adopted, first set forth the generally applicable principle that the evaluation of whether a "common enterprise" exists will depend upon the facts and circumstances of individual cases. In other words, loans to separate borrowers may be required to be combined even in cases which do not meet every detail of the *per se* rules set forth in (ii)–(iv) § 32.5(a)(2)(ii)–(iv).

The first *per se* rule (§ 32.5(a)(2)(ii)) deals with loans or extensions of credit for which the bank is relying on a common source of repayment. This is a traditional test and, as set forth in the proposed regulation, was commented upon favorably.

The second *per se* rule (§ 32.5(a)(2)(iii)) deals with legal entities which are related through common ownership or management ("control") and which have a demonstrated financial interdependence. (§ 32.5(a)(2)(v) sets forth an extensive definition of "control.") Although this subparagraph should be read flexibly to cover all interdependent entities, a "rule of thumb" has been provided under which a "common enterprise" will be deemed to exist. Under the regulation, loans to two or more entities related through common control will be combined when an entity derives more than half of its gross receipts or expenditures from transactions with the other, related, entities. "Gross receipts and expenditures," it should be noted, includes gross revenues and expenses, contributions to capital, dividends, intercompany loans, etc.

The Office believes that the test provided in § 32.5(a)(2)(iii) (along with the definition of "control" in § 32.5(a)(2)(v)) provides a realistic perspective for the evaluation of the credit risk of lending to related legal entities. Under the test, loans to corporations (and other entities) forming a segment of a vertically integrated business will be combined. This is a logical result, since, generally, the financial stability of one such entity will be inextricably linked to the financial stability of the others.

Of course, the 50 percent dependency test of § 32.5(a)(2)(iii) will not be applied to entities otherwise unrelated to one another. Thus, if an independent manufacturer happens to sell all of its output to one retailing chain, and the two entities are not commonly controlled, loans to each need not be combined under this test. Conversely, loans to commonly controlled entities which engage in separate lines of business will not be combined under the "common enterprise" rules where each business has attained a demonstrated degree of self-sufficiency. These clarifications were adopted in response to suggestions in the comments.

The third *per se* rule (§ 32.5(a)(2)(iv)) addresses situations which arise with some degree of frequency, *i.e.*, a bank extends loans to a group of otherwise unrelated persons for the purpose of the group's acquisition of a business enterprise. The Office has, in the past, combined these loans on the theory that the credit risk of each loan is one and the same. This position is codified in the final regulation. It should be pointed out, however, that loans to these persons made for other purposes need not be combined under the "common enterprise" rule.

c. *Loans to corporations.* The proposed regulations incorporated two major changes from prior law in this area. First, under the proposal, loans to an individual were to be combined with loans to all corporations in which that individual owned a controlling interest. Second, loans to all subsidiaries of a "person" (including both corporations and other legal entities), were to be combined with one another even if the "parent" was not borrowing from the bank.

Each of these two changes generated a relatively large number of comments. Approximately 50 comments addressed each proposed change. Most argued that implementation of the changes would disrupt existing relationships between banks and their most valued customers. Many argued that the proposal, by virtue of its sweeping nature, ignored

the fact that many corporations were totally self-sufficient and therefore represented wholly different credit risks from their parents and/or sister subsidiaries. A number of the banks that commented argued that adoption of the proposal would put them at a competitive disadvantage to their state-chartered competitors. Other commenters argued that there ought to be no *per se* rules; instead they urged that the "means and purpose" tests be the sole combining criteria for all loans.

The Office has given thorough consideration to these comments and has taken a fresh look at the question of combining loans in the corporate area. The final regulation reflects the Office's opinion that, while there are related risks in lending to commonly controlled corporations and their controlling entities, those risks can be effectively dealt with, for the most part, by application of the "common enterprise" rules, as adopted. The final regulation also reflects the Office's continued use of the "means and purpose" tests as the criteria for combining loans to foreign governments, their agencies, and instrumentalities. However, the Office believes that those tests would be difficult to apply to all other loans because they are less homogeneous than sovereign loans. In addition, the imposition of such tests for all loans would impose substantial new paperwork burdens. Therefore the Office believes it necessary to adopt some *per se* rules. The final regulation does allow affiliated persons which are financially independent to have separate limits under the rules for combining loans to corporations. Of course, depending on the facts, combination may be required under the "common enterprise," partnership, or other combining rules. Banks lending to commonly controlled corporations and their controlling entities should, therefore, institute procedures to ensure that the entities are not part of a "common enterprise" or partnership or otherwise connected in a manner requiring combination.

In addition, however, the Office's experience indicates that, at least to a certain extent, the risks of lending to more than one member of a "corporate group" exceed the risks involved in lending to totally unrelated corporations. This is because of the fact that, even if the commonly owned corporations are self-sufficient and there are few intra-corporate transactions, there is a tendency, when one corporation faces financial difficulties, for its parent or sister corporations to come to its assistance. In these situations, the risks of lending to one member of a corporate group tend to resemble more closely the risks of lending to one entity. In light of this, the Office has exercised its authority under subsection (d)(1) of the revised Section 84 to set an aggregate limitation of 50 per cent of a bank's capital on loans to a corporate group (which includes an individual and all controlled corporations). Such limitation, it is expected, will serve to effectuate both of the stated purposes of Section 84: diversification of credit risk and availability of credit to all segments of the community. This change from the *per se* rules of the proposed regulation is responsive to the concerns of many commenters that the combination rules in the corporate area were unduly restrictive.

The 50 per cent limitation, the Office believes, will provide banks with a great deal of flexibility in their lending practices. Banks should exercise caution in approaching this limit. The Office reserves the right to take action against banks whose safety and soundness is being compromised by large concentrations of loans to related corporations.

d. *Loans to partnerships, joint ventures, and associations.* Approximately 40 commenters addressed proposed § 32.5(c). Many of the commenters perceived a change in the law in instances when, in fact, the proposed regulation reflected existing Office policy. The majority of the comments received on this subsection objected to the combination of loans to partnerships with loans to all partners thereof. Many of the commenters simply stated that the proposed partnership rules were overly harsh but did not specify which portion of the rules were being objected to.

The Office has undertaken a thorough reevaluation of the rules governing loans to partnerships. It has redrafted the proposed rule based upon the single premise that partnership loans are unique since, under the law, each partner in a general partnership is jointly and severally liable for all liabilities of the partnership. The final regulation reflects this premise by stating that any loan to a partnership will be considered, separately, a loan to each member of the partnership for lending limit purposes. This will be true even where the partner is not borrowing from the bank.

Thus, assuming that a bank's lending limit is $100,000, it may extend $50,000 of credit each to A and B, who are general partners in the partnership AB, and it may also loan $50,000 to AB. This is because AB's loans will be attributed individually to both A and B. If, however, B is also a member of partnership BC, which desires to borrow $50,000 from the bank, the bank would be unable to make that loan to BC, since both AB's $50,000 loan and BC's $50,000 loan if made, would be attributed to B, who already has a $50,000 personal loan.

A number of commenters argued that the partnership debt should be attributed to the partners only to the extent of their ownership share in the partnership. Thus, using the previous example, if A and B each owned 50 per cent of the partnership, only $25,000 of the partnership debt would be attributed to both A and B. The Office believes that this suggestion does not reflect the reality of partnership law and practice, as discussed above, and has therefore not adopted it.

Some commenters suggested that loans to partnerships need not be attributed to partners where the bank has agreed to seek recourse only to the partnership assets and not to the partners individually. This suggestion was not adopted, primarily because the Office believes it would provide banks with an incentive to make "nonrecourse" loans in cases where to do so would be imprudent. Past experience with a similar limited liability concept concerning loans that was in effect for a period during the 1960s showed this to be true.

A number of commenters suggested that the Office expand its proposed rule under which limited partners are not governed by the *per se* combination rules of § 32.5(c) to include members of joint ventures or associations whose potential liability resembles that of a limited partner. The Office has adopted this suggestion.

e. *Loans to foreign governments, their agencies, and instrumentalities.* A number of commenters asked that the Office reaffirm its position that loans to government-owned corporations are to be governed by the rules applicable to sovereign loans. Section 32.5(d) of the regulation adopts verbatim the language of the present 12 CFR 7.1330.

6. Section 32.6—Exceptions to the lending limits

a. *Discount of commercial or business paper.* Four comments addressed this subsection. Two comments suggested that a provision be added which would allow the Comptroller to approve, from time to time, insurance provided by international trade organizations other than the Export-Import Bank or Foreign Credit Insurance Association as a

substitute for the full recourse endorsement of the owner of commercial paper in export transactions. The Office would be willing to consider such applications in particular cases.

One commenter asked that the Office clarify the question of whether certain specific products qualify under this exception as "commodities." Over the years, the Office has written numerous interpretive letters addressing questions of whether specific types of goods qualifed as "commodities" under this exception. The Office believes it would be impractical to deal with each instance specifically in a regulation.

One commenter suggested reinstating the provision that commercial or business paper issued in connection with commodity export transactions may meet the requirements of this exception if it bears the nonrecourse endorsement of the owner and is covered by appropriate insurance. This suggestion was adopted.

The Office has also clarified the regulation to state that any renewal or extension of overdue commercial or business paper will be treated in the same manner as the overdue paper itself and will not qualify for the exception.

b. *Bankers' acceptances.* Two comments were received on this exception. Both addressed an ambiguity created by a parenthetical statement in the final sentence of the proposed subsection dealing with participations. The parenthetical statement has therefore been eliminated.

c. *Loans secured by bills of lading or warehouse receipts covering readily marketable staples.* The one comment received on this subsection suggested two additions to § 32.6(c)(6). One suggestion was that the regulation make clear that, although a warehouse receipt must entitle the bank to "immediate possession" of the collateral, the exception is still applicable when state law requires a brief notice period or imposes other procedural requirements before disposal of the collateral. The other suggestion was that "similar documents" be defined to include any documents meeting the Uniform Commercial Code definition of "document of title." Both suggestions have been incorporated in the final regulation.

d. *Loans secured by U.S. obligations.* Six comments addressed that portion of the proposed regulation under which loans secured by United States obligations would be excepted from the lending limits only to the extent that the loans were secured by the current market value of such obligations. The previous regulation had permitted such obligations to be valued at either par or face value. Four commenters opposed this change; two commenters felt if the regulation continued to require valuation at market value, then that valuation need only be made at the inception of the loan.

While the Office recognizes that the full face or par value of United States obligations will eventually be realized, seriously depreciated obligations might require a long holding period in order to realize the principal amount of the loan. Since this exception allows unlimited lending based on the nature of the collateral, the Office believes that the collateral should provide full market value coverage for the loan, to the extent the exception is applicable. Therefore, this provision has been retained as proposed.

Along the same lines, it would not be prudent to allow unlimited loans to one entity based on the market value of the collateral only at inception. The collateral must provide full coverage at all times; thus, only that portion of the loan covered by the market value of United States obligations at any one time is eligible for this exception. Any amount of the loan in excess of the market value of the collateral will be subject to the general 15 per cent limitation. If a borrower has already borrowed 15 per cent of the bank's capital under the general limitation, and the market value of the collateral for a loan under this exception declines, the loan will be treated as a violation of law if it is not brought into conformance within five business days.

e. *Loans to or guaranteed by a federal agency.* The proposed regulation restated the Office's previous interpretation of this exception. Two commenters pointed out, however, that the statute had revised this exception so that a 60-day period in which a guarantee must be honored was no longer required. As with the previous exception governing United States government obligations, the Office believes that unlimited lending based on a secondary source of repayment, such as a guarantee or collateral, would require that the repayment source be both creditworthy and liquid. Therefore, the Office has retained the 60-day requirement for payment on the guarantee since this requirement will ensure that the protection afforded by the guarantee is liquid.

f. *Loans secured by segregated deposit accounts.* The revised statute added an exception for loans secured by segregated deposit accounts in the lending bank. The proposed regulation allowed any type of deposit to be used under this exception, but required deposits denominated in a currency other than that of the loan to be revalued at least monthly. It also outlined certain steps which must be taken within five business days in order to maintain conformance with this exception.

Three commenters suggested that other types of collateral, such as negotiable certificates of deposit and gold and silver accounts, be included under this exception. However, the Office believes that those types of collateral are beyond the scope of the statute.

Four commenters found the five-day period for bringing loans into conformity too rigid. The Office believes that a loan must be fully covered by the dollar value of an assigned deposit before it can be eligible for this exception. However, the Office has reconsidered the proposed regulation and has concluded that the steps a bank must take to effectuate conformance need not be specified by regulation. Therefore, the amount of a loan covered by the dollar value of an assigned deposit will be eligible for this exception; any amount in excess of the dollar value of the deposit will be subject to the general 15 per cent limitation. If a borrower has already borrowed 15 per cent of the bank's capital under the general limitation, and the dollar value of the deposit collateralizing a loan made under this exception declines due to currency fluctuations, the loan will be treated as a violation of law if it is not brought into conformance within five business days. This provision is not to be interpreted as authority for national banks to accept deposits denominated in foreign currencies. Any such authority must be found elsewhere.

The final regulation also clarifies the fact that a security interest must be taken in the deposit in order to qualify for the exception; a bank may not merely rely on the right of set-off against the deposit in the event of nonpayment.

g. *Loans to financial institutions with the approval of the Comptroller.* The exception in amended Section 84(c)(7) is a continuation of exception 9 to the previous Section 84. As the legislative history of that exception makes clear, the exception was only to be applicable to loans to other banks, approved by the Comptroller, when such banks were in danger of failing. The old exception, as well as the amended one, was not intended to cover other types of interbank funding. The two commenters on proposed § 32.6(g) apparently were unaware of the limited purposes of the exception. The final regulation, therefore, provides a more accurate

description of the purposes of the exception.

h. *Discount of installment consumer paper.* Seven comments addressed proposed § 32.6(h). A number of commenters noted that former Interpretive Rulings 7.1110 and 7.1115, 12 CFR 7.1110 and 7.1115, had been transferred to this subsection. They urged that those rulings—which dealt with the purchase of third-party paper—should be applicable not only to the purchase of installment consumer paper but to all other types of paper as well. The commenters correctly pointed out that those rulings also apply to purchases of paper other than third-party installment consumer paper. The paragraph has been transferred to the Interpretations section of the final regulation and will now continue to apply to purchases of all types of third-party paper.

One commenter noted that the amended Section 84 did not change the percentage of a bank's capital available to one borrower arising from the discount of consumer paper, *i.e.*, 25 per cent of a bank's capital, and urged that the Office increase the percentage limitation under this exception. The Office recognizes that, under certain conditions, a higher percentage of capital invested in the discount of dealer paper might not damage a particular bank's safety or soundness. However, there seems to be no compelling reason to alter Congress's judgment in this matter at this point in time.

Two commenters addressed the fact that in order for a discount of installment consumer paper to be considered a loan to the maker of the paper rather than the seller, the bank must, *inter alia*, make certain certifications through "an officer designated by the Board of Directors * * *." The commenters urged that this provision, which had been carried over from the former Interpretive Ruling, be amended so as to allow the certifying officer to be designated by a bank's Chairman or Chief Executive Officer pursuant to authorization by the bank's Board of Directors. The final regulation incorporates this suggestion.

One commenter addressed the other requirement for treating discounts of installment consumer paper as a loan to the maker rather than to the seller, *i.e.*, that the bank, through its "files or the knowledge of its officers" affirm the maker's creditworthiness. The commenter noted that basing the exception on "the knowledge of its officers," as opposed to relying on written documentation contained in files, only "encourages sloppy banking practices." The Office agrees with the commenter and has amended the provision accordingly in the final regulations.

i. *Loans secured by livestock or dairy cattle.* Four comments were received on the subsection dealing with these exceptions. Two urged that the provision requiring inspection reports "annually" be changed to "every twelve months." This suggestion was adopted. One comment suggested that the term "recorded chattel mortgage" be updated in conformance with language in the Uniform Commercial Code. The final regulation adopts this suggestion and allows any lien representing a perfected security interest under state law. Another commenter suggested that an additional appraisal requirement be imposed at the time additional advances are made against the same livestock. While it may be prudent to obtain an updated appraisal when certain advances are made, the Office feels it may be burdensome to require a new appraisal each time advances are made. It is felt that a new appraisal every twelve months is sufficient in most instances.

j. *Loans to Student Loan Marketing Association.* No comments were received on this subsection, and the subsection has been adopted as proposed.

7. Transitional rules

a. *Loans in violation prior to the effective dates of Part 32.* The proposed regulation provided that loans by national banks which were in violation of Section 84 prior to April 14, 1983, would remain in violation until paid in full regardless of whether the loans were within the increased lending limits. Four commenters opposed this provision, while two supported it.

The Office, in the past, has consistently adopted an enforcement policy under which loans which violated the lending limit at their inception were considered to remain in violation until the loans were paid in full. This has been true even in cases where the loans became conforming before being fully paid. This position is one that is supported by case law. The Office believes that it is a prudent policy and has continued it in the final regulations.

Both the proposed and the final regulation provide that additional advances may be made to a person who already has loans outstanding which violate Section 84, if such additional loans are legal when made. The final regulation, however, adds that additional advances may not be used to "cure" the original illegal loans.

b. *Loans made prior to the effective dates of Part 32.* The proposed regulation provided that loans made prior to April 14, 1983, which were legal when made, would not be considered illegal if they did not conform with the new regulations. Instead, it was provided that "every effort should be made to bring the loans * * * into conformity * * *." Sixteen commenters suggested that the term "every effort" was overly vague and that bankers would have a difficult time determining whether they had complied with this provision.

While the Office intended that "every effort" should occur when the loans could legally be reduced, *i.e.*, at maturity, and if the borrower was financially able to reduce the debt, it is recognized that the subsection, as written, might be unclear to some. Therefore, the subsection has been clarified to provide specific time periods during which loans, renewals, and extensions may remain in a nonconforming status without constituting a violation of the final regulation.

c. *Commitments and additional advances.* The proposed regulation provided that additional advances could not be made after April 14, 1983, if they were not in conformance with the new rules, even if a commitment to lend had been entered into prior to April 14, 1983. This provision was consistent with the Office's traditional position that generally only advances—rather than mere commitments to lend—trigger the lending limit statute. Thus, if a bank's capital declines between the time a conforming commitment is made and the time an advance is made, some action, such as a participation, must be arranged to the extent that the advances will exceed the bank's lending limit at the later date. The proposed regulation, therefore, reflected this longstanding policy.

Thirty-four comments addressed this portion of the proposed regulation; most read into the provision a suggestion by the Office that prior commitments ought to be breached. Twenty-five commenters suggested that commitments made prior to April 14, 1983 (and legal when entered into), should be grandfathered; another six commenters suggested that a phase-in period be specified.

The final regulation has been amended, in response to these comments, to allow all legally binding commitments to be honored according to their terms. However, advances under renewals or extensions of such commitments must be in conformity with the rules set forth in the final regulation. Advances under such

renewals or extensions which are not in conformance with the final regulation will be considered violations of law. These rules will apply to unwritten commitments as well, where the bank has an understanding with the borrower that the bank will make advances. However, banks making advances under such commitments must be able to document, in some fashion, the fact that the commitment was legally binding on the bank. For example, seasonal loans to a farmer may be made for 30-day periods, for interest sensitivity purposes, with the understanding that these notes will be renewed through the crop season. This understanding between the bank and the borrower would not necessarily be in writing, but file documentation should make clear the bank's intent to continue the funding through the crop season. In addition, these short-term notes would be considered as part of a longer-term commitment and treatment of these loans would be guided by the terms of the commitment rather than the individual note terms.

8. *Interpretations*

a. *Obligations of accommodation parties.* Six comments were received on proposed Interpretation 32.101. Most of the comments objected to the fact that, under the Interpretation, a guarantor's liability was to be considered a loan if one of the "common enterprise" tests was satisfied. The commenters seemed to believe that this represented a change from present law, under which a guarantee is considered a loan only if the guarantor "receive[s] any of the proceeds of the loan * * *." Most of the commenters' concern, however, focused on the substance of the "common enterprise" tests as formulated in the proposed regulations.

After considering the comments, the Office has decided to adopt the Interpretation as proposed. It should be noted that most of the commenters seem to have been unaware that the phrase "receive the proceeds of the loan" in the existing Interpretive Ruling had been interpreted broadly by the Office to include cases where the guarantor received an indirect benefit from the loan. Therefore, the Interpretation, as adopted, will not substantially alter current Office policy in this area. This is especially so in light of the modification of the "common enterprise" test, as discussed above.

b. *Sale of Federal funds.* Three commenters objected to the fact that, under the proposed Interpretation, the sale of "term" Federal funds would be considered a loan subject to the lending limits. These commenters seemed to be unaware that this position was adopted by the Office in 1978. *See* Banking Circular 112. The Office believes that the position adopted in 1978 is a reasonable one: the purchase of term Federal funds is, in substance, closer to a borrowing transaction than to a deposit. The Interpretation, therefore, has been adopted as proposed in this respect.

The Office has added a new subsection clarifying the meaning of a sale of funds "under a continuing contract," in response to the request of a commenter who asked for such clarification.

c. *Purchase of securities subject to repurchase agreement.* One commenter requested that the Office alter its existing policy and exempt purchases of "Type II" securities subject to repurchase agreements from coverage under the lending limits. The Office, after considering the matter, has decided not to amend this Interpretation, primarily because, as an industry practice, the subject transactions have traditionally been regarded as loans to the seller.

Another commenter requested that the Office codify its position that the purchase of securities (other than "Type I" securities) subject to a repurchase agreement constitutes a loan to the seller of such securities rather than to the underlying obligor of the securities. An additional subsection has been added to Interpretation 32.103 to make this rule clear.

d. *Standby letters of credit.* Twelve comments addressed proposed Interpretation 32.104. Six of the commenters asked the Office to clarify its position regarding whether a bank that sells participations in its standby letters of credit has thereby relieved itself of that portion of the letter of credit participated for purposes of the lending limits. Interpretation 32.107, as adopted, does clarify the Office's treatment of participations in standby letters of credit.

Six comments noted the fact that the proposal retained the Office's position, adopted in 1974, that standby letters of credit are not subject to any of the exceptions to Section 84 and urged the Office to reconsider this position. In response to these comments, the Office has reconsidered its position and has, in the final regulation, eliminated the Interpretation regarding standby letters of credit. Instead, the definition of standby letters of credit has been transferred to the definitional section. Under the final regulation, a standby letter of credit will be treated in the same manner as a loan for lending limit purposes and will be subject to all of the exceptions to Section 84.

e. *Overdrafts.* Eleven comments were received regarding the proposed Interpretation dealing with overdrafts. All of the comments suggested that certain exceptions be made from the general rule that overdrafts constitute loans for lending limit purposes. Some suggested that "inadvertent" overdrafts not be considered loans, a rule which the Office believes would be impossible to administer. The same holds true for the suggestion by some commenters that only "significant" overdrafts be considered loans. Most of the commenters were concerned with the possible directors' liability involved. It should be noted, however, that, if the overdraft is paid by the customer, any violation created by the overdraft would immediately be cured.

Some commenters suggested that the Office create an exception for "daylight" overdrafts. While the Office recognizes that "daylight" overdrafts are a common occurrence, there is a high level of concern about the amount of exposure involved. The final regulation incorporates, for the time being, an exception for "daylight" overdrafts. In the meantime, the Office intends to study the matter further. Banks should recognize the risks involved in "daylight" overdrafts and should implement proper controls.

f. *Loans charged off in whole or in part.* Three comments addressed proposed Interpretation 32.106; all suggested further criteria that should allow charged-off loans to no longer be considered loans for lending limit purposes. Specifically, it was suggested that loans which are unenforceable due to the expiration of the statute of limitations, judicial decision, or regulatory order should no longer be considered loans to the borrower. The Office has followed these suggestions by adding to the final regulation the phrase "no longer legally enforceable for other reasons." Banks should be cautious in taking advantage of this new standard. At a minimum, banks should obtain an opinion of counsel indicating that the loan is no longer legally enforceable.

g. *Sale of loan participations.* Ten commenters addressed proposed Interpretation 32.107. Most indicated that the Interpretation, as proposed, seemed confusing. The Office has, therefore, amended the final regulation so as to clarify its position that, while "LIFO" participations can effectively "relieve" a bank of a loan for lending limit purposes, any participation, to be effective for 12 U.S.C. 84 purposes, must call for a *bona fide* sharing of risk in the

event of default. In addition, a sentence has been added to make it clear that the rules generally applicable to participations also apply to participations in standby letters of credit.

h. *Interest or discount on loans.* The proposed Interpretation added a new provision to the current ruling under which past due interest would be considered a loan. Six commenters objected to this change, noting that past due interest does not represent bank funds which have been loaned out at risk. The Office, upon reconsideration, agrees with this reasoning and, accordingly, has amended the Interpretation as adopted.

i. *Loans to or guaranteed by general obligations of a State or political subdivision.* No comments were received on this Interpretation and it has been adopted as proposed.

j. *Loans to industrial development authorities.* One commenter suggested that this Interpretation be amended to provide for transactions where a loan or installment sale, rather than a lease, is involved. The commenter also recommended new cirteria to be used for this Interpretation's exemption. The Office believes there may be some merit in the commenter's suggestions but that they require further study. The proposed Interpretation, has, therefore, been adopted.

k. *Separate limitations for 12 U.S.C. 24 and 12 U.S.C. 84.* No comments were received on proposed Interpretation 32.111 and it has been adopted as proposed.

l. *Other matters.* Five commenters suggested that the Office adopt additional Interpretations, most of which would codify positions taken by the Office in interpretive letters. The comments addressed: nonrecourse equipment leasing; loans collateralized by a third-party letter of credit; and repurchases of participations. The Office would, before publishing Interpretations in these areas, like to take the opportunity to study them further. Therefore, they have not been included in the final regulations.

9. *Special studies*

a. *Regulatory Impact Analysis.* Pursuant to Section 3(g)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the regulations do not constitute a "major rule" within the meaning of section 1(b) of the Executive Order. The amendment would not have an effect on the economy of $100 million or more, would not affect costs or prices for consumers, individual industries, government agencies, or geographic regions, and would not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based industries to compete with foreign based enterprises in domestic or export markets.

Section 8(a)(2) of Executive Order 12291 provides, in relevant part, that the Order shall not apply to "[a]ny regulation for which consideration * * * under the terms of this Order would conflict with deadlines imposed by statute, *provided that*, any such regulation shall be reported to the Director together with a brief explanation of the conflict, [and] the agency shall publish in the **Federal Register** a statement of the reason why it is impracticable for the agency to follow the procedures of this Order with respect to such rule * * *." The effective date of the revised Section 84 is April 14, 1983. It is important to the banking industry that the regulation implementing Section 84 be in place by April 14, 1983. It is also important that the banking industry have as much time as possible to adjust to the new rules. Banks are currently involved in negotiations with customers for loans that will close after April 14, 1983. Such loans will be subject to the new rules and banks must have knowledge of those rules as quickly as possible so that negotiations can proceed in an orderly manner. The only practical way to maximize the banks' lead time is to publish the regulation as far in advance of its effective date as possible.

The Office's ability to publish the rule any earlier was reduced by twice extending the comment period for the Notice of Proposed Rulemaking to insure full opportunity for interested parties to make their views known.

Except for an important exception addressed below, it would be impractical to delay the effective date of the regulation. A delayed effective date would give uncertain status to the many new terms and provisions contained in 12 U.S.C. 84—terms and provisions that become effective April 14, 1983. That uncertain status would create substantial confusion among banks that would be alleviated only when the rules went into effect.

The exception noted immediately above relates to the proposed rules for combining loans to separate borrowers for lending limit purposes. The Office is delaying the effective date of those rules for 60 days. During this time the Office will accept public comments on their effect. The combination rules were the subject of many comments and the rules in the final regulation have been revised from those proposed earlier. The Office has solicited more information on the extent to which the rules in this document address concerns expressed during the earlier comment periods.

b. *Regulatory Flexibility Act Analysis.* Pursuant to Section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*), the Secretary of the Treasury has certified that the regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Parts 3, 6 and 32

National banks, Lending limits.

12 CFR Part 7

National banks, Management and ownership rights, Other powers.

Accordingly, pursuant to authority under 12 U.S.C. 84 and 93a, the Comptroller of the Currency hereby amends Title 12 of the Code of Federal Regulations by removing and reserving Parts 3 and 6, amending Part 7, and adding a new Part 32 as follows:

PART 3—[REMOVED AND RESERVED]

1. By removing and reserving Part 3 in its entirety.

PART 6—[REMOVED AND RESERVED]

2. By removing and reserving Part 6 in its entirety.

PART 7—INTERPRETIVE RULINGS

3. The authority for Part 7 is:

Authority: R.S. 324 *et seq.*, as amended; 12 U.S.C. 1 *et seq.*

4. By removing §§ 7.1110 through and including 7.1630.

§§ 7.1110 through 7.1630 [Removed]

5. By adding a new Part 32 to read as follows:

PART 32—LENDING LIMITS

Sec.

32.1 Authority, purpose, scope, and recordkeeping.
32.2 Definitions.
32.3 General limitation.
32.4 Additional general limitation: loans fully secured by readily marketable collateral.
32.5 Combining loans to separate borrowers.
32.6 Exceptions to the lending limits.
32.7 Transitional rules.

Interpretations

32.101 Obligations of accommodation parties.
32.102 Sale of Federal funds.
32.103 Purchase of securities subject to repurchase agreement.
32.104 Purchase of third-party paper.

Sec.
32.105 Overdrafts.
32.106 Loans charged off in whole or in part.
32.107 Sale of loan participations.
32.108 Interest or discount on loans.
32.109 Loans to or guaranteed by general obligations of a State or political subdivision.
32.110 Loans to industrial development authorities.
32.111 Separate limitations for 12 U.S.C. 84 and 12 U.S.C. 24.

Authority: 12 U.S.C. 1 *et seq.;* 12 U.S.C. 84; and 12 U.S.C. 93a.

§ 32.1 Authority, purpose, scope, and recordkeeping.

(a) *Authority.* This Part is issued pursuant to authority granted in 12 U.S.C. 1 *et seq.; 12* U.S.C. 84 and 12 U.S.C. 93a.

(b) *Purpose.* R.S. 5200 (12 U.S.C. 84) is intended to prevent one individual, or a relatively small group, from borrowing an unduly large amount of the bank's funds. It is also intended to safeguard the bank's depositors by spreading the loans among a relatively large number of persons engaged in different lines of business.

(c) *Scope.* This Part applies to all loans and extensions of credit made by national banks and their domestic operating subsidiaries. This Part does not apply to loans made by a national bank to its affiliates (as that term is defined in subsection (b)(1) of Section 23A of the Federal Reserve Act (12 U.S.C. 371c(b)(1))), operating subsidiaries, and Edge Act or Agreement Corporation subsidiaries.

(d) *Recordkeeping.* Recordkeeping required in § 32.5(d) of this Part bears OMB No. 1557–0147 with the expiration date of January 31, 1986.

§ 32.2 Definitions.

For purposes of this part:

(a) "Loans and extensions of credit" means any direct or indirect advance of funds (including obligations of makers and endorsers arising from the discounting of commercial paper) to a person made on the basis of any obligation of that person to repay the funds, or repayable from specific property pledged by or on behalf of a person. "Loans and extensions of credit" also includes a "contractual commitment to advance funds" as that term is defined in this section.

(b) "Person" means an individual; sole proprietorship; partnership; joint venture; association; trust; estate; business trust; corporation; not-for-profit corporation; sovereign government or agency, instrumentality, or political subdivision thereof; or any similar entity or organization.

(c) "Unimpaired capital and unimpaired surplus" is equivalent to the term "capital and surplus" and has the meaning set forth in 12 CFR 7.1100.

(d) "Contractual commitment to advance funds" means (1) an obligation on the part of the bank to make payments (directly or indirectly) to a designated third party contingent upon a default by the bank's customer in the performance of an obligation under the terms of that customer's contract with the third party or (2) an obligation to guarantee or stand as surety for the benefit of a third party. The term includes, but is not limited to, standby letters of credit (as defined in paragraph (e) of this section), guarantees, puts, and other similar arrangements. For purposes of this Part, undisbursed loan funds and loan commitments not yet drawn upon which are not equivalent to a contractual commitment to advance funds as defined herein are not considered a "contractual commitment to advance funds." The definition also does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw upon the issuer, which do not "guarantee" payment of a money obligation, and which do not provide for payment in the event of default by the account party.

(e) A "standby letter of credit" is any letter of credit, or similar arrangement, however named or described, which represents an obligation to the beneficiary on the part of the issuer (1) to repay money borrowed by or advanced to or for the account of the account party, or (2) to make payment on account of any indebtedness undertaken by the account party, or (3) to make payment on account of any default by the account party in the performance of an obligation.

§ 32.3 General limitation.

12 U.S.C. 84(a)(1) provides:

> The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

§ 32.4 Additional general limitation: loans fully secured by readily marketable collateral.

(a) *Law.* 12 U.S.C. 84(a)(2) provides:

> The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

(b) *Compliance with Section 84(a)(2).* Each loan or extension of credit based on the foregoing limitation shall be secured by readily marketable collateral having a current market value of at least 100 percent of the amount of the loan or extension of credit at all times. "Current market value" means the bid or closing price listed for an item in a regularly published listing or an electronic reporting service.

(c) For purposes of this Part, "readily marketable collateral" means financial instruments and bullion which are salable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions on an auction or a similarly available daily bid and ask price market. "Financial instruments" include stocks, notes, bonds, and debentures traded on a national securities exchange, "OTC margin stocks" (as defined in Regulation U of the Federal Reserve Board), commercial paper, negotiable certificates of deposit, bankers' acceptances, and shares in money market and mutual funds of the type which issue shares in which banks may perfect a security interest.

(d) Each bank must institute adequate procedures to ensure that the collateral value fully secures the outstanding loan at all times.

(e) Financial instruments may be denominated in foreign currencies which are freely convertible to U.S. dollars. If collateral is denominated and payable in a currency other than that of the loan or extension of credit which it secures, the bank's procedures must require that the collateral be revalued at least monthly, using appropriate foreign exchange rates, in addition to being repriced at current market value.

(f) If collateral values fall below 100 percent of the outstanding loan, to the extent that the loan is no longer in conformance with this section and exceeds the general 15 percent limitation, the loan must be brought into conformance within five business days, except where judicial proceedings, regulatory actions, or other extraordinary occurrences prevent the bank from taking action.

§ 32.5 Combining loans to separate borrowers.

(a)(1) *General rule.* Loans or extensions of credit to one person will

be attributed to other persons, for purposes of this Part, when (i) the proceeds of the loans or extensions of credit are to be used for the direct benefit of the other person or persons or (ii) a "common enterprise" is deemed to exist between the persons.

(2) *"Common enterprise."*

(i) Whether two or more persons are engaged in a "common enterprise" will depend upon a realistic evaluation of the facts and circumstances of particular transactions.

(ii) Where the expected source of repayment for each loan or extension of credit is the same for each person, a "common enterprise" will be deemed to exist and the loans or extensions of credit must be combined.

(iii) Where loans or extensions of credit are made to persons who are related through common control, including where one person is controlled by another person, a "common enterprise" will be deemed to exist if the persons are engaged in interdependent businesses or there is substantial financial interdependence among them. A "common enterprise" will be deemed to exist when 50 percent or more of one person's gross receipts or gross expenditures (on an annual basis) are derived from transactions with one or more persons related through common control (as defined in paragraph (a)(2)(v) of this section). Gross receipts and expenditures include gross revenues/expenses, intercompany loans, dividends, capital contributions, and similar receipts or payments.

(iv) A "common enterprise" will also be deemed to exist when separate persons borrow from a bank for the purpose of acquiring a business enterprise of which those persons will own more than 50 percent of the voting securities.

(v) For the purposes of paragraph (a)(2)(iii) of this section, "control" shall be presumed to exist when:

(A) One or more persons acting in concert directly or indirectly own, control, or have power to vote 25 percent or more of any class of voting securities of another person; or

(B) One or more persons acting in concert control, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person; or

(C) Any other circumstances exist which indicate that one or more persons acting in concert directly or indirectly exercise a controlling influence over the management or policies of another person.

(b) *Loans to corporations.* (1) For purposes of this paragraph, a corporation is a "subsidiary" of any person which owns or beneficially owns more than 50 percent of the voting stock of the corporation. Such ownership need not be direct. Thus, if A owns more than 50 percent of the voting stock of Corporation X which, in turn, owns more than 50 percent of the voting stock of Corporation Y, Corporation Y would be considered a subsidiary of both A and of Corporation X.

(2) Loans or extensions of credit to a person and its subsidiary or to subsidiaries of one person need not be combined where the bank has determined that the person and subsidiaries involved are not engaged in a "common enterprise" as that term is defined in paragraph (a) of this section.

(3) Notwithstanding paragraph (b)(2) of this section, loans or extensions of credit by a national bank to a "corporate group" may not exceed 50 percent of the bank's unimpaired capital and unimpaired surplus. This aggregate limitation applies only to loans made pursuant to Sections 84 (a)(1) and (a)(2). A "corporate group" includes a person and all of its subsidiaries.

(c) *Loans to partnerships, joint ventures, and associations.* (1) Loans or extensions of credit to a partnership, joint venture, or association shall, for purposes of this Part, be considered loans or extensions of credit to each member of such partnership, joint venture, or association.

(2) Loans or extensions of credit to members of a partnership, joint venture, or association shall, for purpose of this Part, be attributed to the partnership, joint venture, or association where one or more of the tests set forth in paragraph (a) of this section is satisfied. The tests set forth in paragraph (a) of this section shall be deemed to be satisfied when loans or extensions of credit are made to members of a partnership, joint venture, or association for the purpose of purchasing an interest in such partnership, joint venture, or association.

(3) The rule set forth in paragraph (c)(1) of this subsection is not applicable to limited partners in limited partnerships or to members of joint ventures or associations if such partners or members, by the terms of the partnership or membership agreement, are not to be held liable for the debts or actions of the partnership, joint venture, or association. However, the rules set forth in paragraph (a) of this section are applicable to such partners or members.

(d) *Loans to foreign governments, their agencies, and instrumentalities.* (1) Notwithstanding paragraphs (a), (b), and (c) of this section, loans or extensions of credit to foreign governments, their agencies, and instrumentalities will be combined with one another under Section 84 only if they fail to meet either of the following tests at the time the loan or extension of credit is made:

(i) The borrower has resources or revenue of its own sufficient over time to service its debt obligations ("means" test);

(ii) The purpose of the loan or extension of credit is consistent with the purposes of the borrower's general business ("purpose" test).

(2) In order to show that the "means" and "purpose" tests have been satisfied, a bank shall, at a minimum, assemble and retain in its files the following items:

(i) A statement (accompanied by supporting documentation) describing the legal status and the degree of financial and operational autonomy of the borrowing entity.

(ii) Financial statements for the borrowing entity for a minimum of three years prior to the date the loan or extension of credit was made or for each year less than three that the borrowing entity has been in existence.

(iii) Financial statements for each year the loan or extension of credit is outstanding.

(iv) The bank's assessments of the borrower's means of servicing the loan or extension of credit, including specific reasons in support of that assessment. The assessment shall include an analysis of the borrower's financial history, its present and projected economic and financial performance, and the significance of any financial support provided to the borrower by third parties, including the borrower's central government. If the government's support exceeds the borrower's annual revenues from other sources, it will be presumed that the "means" test has not been satisfied. No such presumption will be made, however, because of a guarantee by the central government of the borrower's debt.

(v) A loan agreement or other written statement from the borrower which clearly describes the purpose of the loan or extension of credit. The written representation will ordinarily constitute sufficient evidence that the "purpose" test has been satisfied. However, when, at the time the funds are disbursed, the bank knows or has reason to know of other information suggesting that the borrower will use the proceeds in a manner inconsistent with the written representation, it may not, without further inquiry, accept the representation.

§ 32.6 Exceptions to the lending limits.

(a) *Discount of commercial or business paper.*

(1) *Law.* 12 U.S.C. 84(c)(1) provides:

Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

(2) This exception applies to negotiable paper given in payment of the purchase price of commodities in domestic or export transactions purchased for resale or to be used in connection with the fabrication of a product, or to be used for any other business purpose which may reasonably be expected to provide funds for payment of the paper. Loans or extensions of credit arising from the discount of paper of the kind described in this paragraph must bear the full recourse endorsement of the owner. However, loans or extensions of credit arising from the discount of such paper in export transactions may be endorsed by such owner without recourse or with limited recourse, or may be accompanied by a separate agreement for limited recourse; provided, that if transferred without full recourse, the paper must be supported by an assignment of appropriate insurance covering the political, credit, and transfer risks applicable to the paper. Insurance provided by the Export-Import Bank or the Foreign Credit Insurance Association is considered appropriate for this purpose. Loans or extensions of credit based on this exception are not subject to any limitation.

(3) Since the reason for the unlimited credit under this exception is that the paper arises from the sale of a commodity which may reasonably be expected to provide funds for payment of the paper, failure to pay either principal or interest when due removes the reason for unlimited credit. Therefore, although the line of credit to the maker or endorser should not be classified as excessive by reason of such default, the paper on which the default has occurred must thereafter be taken into consideration in determining whether additional loans or extensions of credit may be made within the limits of 12 U.S.C. 84. The same principles of disqualification from the exception applies to any renewal or extension of either the entire loan or an installment thereof.

(b) *Bankers' acceptances.* (1) *Law.* 12 U.S.C. 84(c)(2) provides:

The purchase of bankers' acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks shall not be subject to any limitation based on capital and surplus.

(2) This exception permits the purchase by a national bank without limitation of bankers' acceptances created by other banks, provided that such acceptances are of the kind described in 12 U.S.C. 372 and 373 (eligible acceptances). Acceptances other than those described in Sections 372 and 373 must be included within the purchasing bank's lending limit to each acceptor bank.

(3) The limits under which a national bank may itself accept drafts eligible for rediscount are contained in Sections 372 and 373. These limits are distinct from the limits under Section 84. Acceptances by a national bank of "ineligible" drafts, *i.e.*, time drafts which do not meet the requirements for discount with a Federal Reserve bank, are subject to the limitations of Section 84.

(4) During any period within which a national bank holds its own acceptances, eligible or ineligible, having given value therefor, the amount given is considered, for purposes of this Part, to be a loan or extension of credit to the customer for whom the acceptance was made and is subject to the lending limits. To the extent that a loan or extension of credit created by discounting the acceptance is covered by a bona fide participation agreement, the discounting bank need only consider that portion of the discounted acceptance which it retains as being subject to the limitations of section 84.

(c) *Loans secured by bills of lading or warehouse receipts covering readily marketable staples.* (1) *Law.* 12 U.S.C. 84(c)(3) provides:

Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 per centum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

(2) This exception allows a national bank to make loans or extensions of credit to one person in an amount equal to 35 per cent of its capital and surplus in addition to the general 15 per cent permitted by Section 84(a)(1) and in addition to the 10 per cent permitted by Section 84(a)(2), provided the collateral requirements of Section 84(a)(2) are met.

(3) A readily marketable staple means an article of commerce, agriculture, or industry of such uses as to make it the subject of dealings in a ready market with sufficiently frequent price quotations as to make (i) the price easily and definitely ascertainable, and (ii) the staple itself easy to realize upon sale at any time at a price which would not involve any considerable sacrifice from the amount at which it is valued as collateral. Staples eligible for this exception must be nonperishable, may be refrigerated or frozen, and must be fully covered by insurance when such insurance is customary. This exception is intended to apply primarily to basic commodities, such as wheat and other grains, cotton, wool, and basic metals such as tin, copper, lead, and the like. Whether a commodity is readily marketable depends upon existing conditions and it is possible that a commodity that qualifies at one time may cease to qualify at a later date. Fabricated commodities which do not constitute standardized interchangeable units and do not possess uniformly broad marketability do not qualify as readily marketable collateral.

(4) Commodities sometimes fail to qualify as nonperishable because of the manner in which they are handled or stored during the life of the loan or extension of credit. Accordingly, the question as to whether a staple is nonperishable must be determined on a case-by-case basis.

(5) This exception is applicable to a loan or extension of credit arising from a single transaction or secured by the same staples for (i) not more than 10 months if secured by nonperishable staples; and (ii) not more than six months if secured by refrigerated or frozen staples.

(6) The important characteristic of warehouse receipts, order bills of lading, or other similar documents is that the holder of such documents has control of the commodity and can obtain immediate possession. (However, the existence of brief notice periods, or similar procedural requirements under state law, for the disposal of the collateral will not affect the eligibility of instruments for this exception.) Only documents with these characteristics are eligible security for loans under this exception. In the event of default on a loan secured by such documents, the bank must be in a position to sell the underlying commodity and promptly transfer title and possession to the purchaser, thus being able to protect itself without extended litigation. Generally, documents qualifying as "documents of title" under the Uniform Commercial Code are "similar documents" qualifying for this exception.

(7) Field warehouse receipts are an acceptable form of collateral when they are issued by a duly bonded and licensed grain elevator or warehouse having exclusive possession and control of the commodities even though the grain elevator or warehouse is maintained on the commodity owner's premise.

(8) Warehouse receipts issued by the borrower-owner which is a grain elevator or warehouse company, duly-bonded and licensed and regularly inspected by state or federal authorities, may be considered eligible collateral under this exception only when the receipts are registered with an independent registrar whose consent is required before the commodities can be withdrawn from the warehouse.

(d) *Loans secured by U.S. obligations.* (1) *Law.* 12 U.S.C. 84(c)(4) provides:

> Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

(2) This exception applies only to the extent that loans or extensions of credit are fully secured by the current market value of obligations of the United States or guaranteed by the United States.

(3) If the market value of the collateral declines to the extent that the loan is no longer in conformance with this exception and exceeds the general 15 per cent limitation, the loan must be brought into conformance within five business days.

(e) *Loans to or guaranteed by a federal agency.* (1) *Law.* 12 U.S.C. 84(c)(5) provides:

> Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States shall not be subject to any limitation based on capital and surplus.

(2) This exception may apply to only that portion of a loan or extension of credit that is covered by a federal guarantee or commitment.

(3) For purposes of this exception, the commitment or guarantee must be payable in cash or its equivalent within sixty days after demand for payment is made.

(4) A guarantee or commitment is unconditional if the protection afforded the bank is not substantially diminished or impaired in the case of loss resulting from factors beyond the bank's control. Protection against loss is not materially diminished or impaired by procedural requirements, such as an agreement to take over only in the event of default, including default over a specific period of time, a requirement that notification of default be given within a specific period after its occurrence, or a requirement of good faith on the part of the bank.

(f) *Loans secured by segregated deposit accounts.* (1) *Law.* 12 U.S.C. 84(c)(6) provides:

> Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

(2) The bank must ensure that a security interest has been perfected in the deposit, including the assignment of a specifically identified deposit and any other actions required by state law.

(3) Deposit accounts which may qualify for this exception include deposits in any form generally recognized as deposits. In the case of a deposit eligible for withdrawal prior to the maturity of the secured loan, the bank must establish internal procedures which will prevent the release of the security.

(4) A deposit which is denominated and payable in a currency other than that of the loan or extension of credit which it secures may be eligible for this exception if it is freely convertible to U.S. dollars. The deposit must be revalued at least monthly, using appropriate foreign exchange rates, to ensure that the loan or extension of credit remains fully secured. This exception applies to only that portion of the loan or extension of credit that is covered by the U.S. dollar value of the deposit. If the U.S. dollar value of the deposit falls to the extent that the loan is in nonconformance with this exception and exceeds the general 15 per cent limitation, the loan must be brought into conformance within five business days, except where judicial proceedings, regulatory actions, or other extraordinary occurrences prevent the bank from taking such action. This exception is not authority for national banks to take deposits denominated in foreign currencies.

(g) *Loans to financial institutions with the approval of the Comptroller.* (1) *Law.* 12 U.S.C. 84(c)(7) provides:

> Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

(2) This exception is intended to apply only in emergency situations where a national bank is called upon to provide assistance to another financial institution.

(3) For purposes of this paragraph (g), "financial institution" means a commercial bank, savings bank, trust company, savings and loan association, or credit union.

(h) *Discount of installment consumer paper.* (1) *Law.* 12 U.S.C. 84(c)(8) provides:

> (A) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25 per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a)(2).
>
> (B) If the bank's files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

(2) This exception allows a national bank to discount negotiable or nonnegotiable installment consumer paper of one person in an amount equal to 10 percent of its capital and surplus (in addition to the 15 percent permitted by Section 84(a)(1)) if the paper carries a full recourse endorsement or unconditional guarantee by the seller transferring such paper. The unconditional guarantee may be in the form of a repurchase agreement or a separate guarantee agreement. A condition reasonably within the power of the bank to perform, such as the repossession of collateral, will not be considered to make conditional an otherwise unconditional agreement.

(3) For purposes of this paragraph (h), "consumer" means the user of any products, commodities, goods, or services, whether leased or purchased, and does not include any person who purchases products or commodities for the purpose of resale or for fabrication into goods for sale.

(4) For purposes of this paragraph (h), "consumer paper" includes paper relating to automobiles, mobile homes, residences, office equipment, household items, tuition fees, insurance premium fees, and similar consumer items. Also included is paper covering the lease (where the bank is not the owner or

lessor) or purchase of equipment for use in manufacturing, farming, construction, or excavation.

(5) Under certain circumstances, installment consumer paper which otherwise meets the requirements of this exception will be considered a loan or extension of credit to the maker of the paper rather than the seller of the paper. Specifically, where (i) through the bank's files it has been determined that the financial condition of each maker is reasonably adequate to repay the loan or extension of credit, and (ii) an officer designated by the bank's Chairman or Chief Executive Officer pursuant to authorization by the Board of Directors certifies in writing that the bank is relying primarily upon the maker to repay the loan or extension of credit, the loan or extention of credit is subject only to the lending limits of the maker of the paper. Where paper is purchased in substantial quantities, the records, evaluation, and certification may be in such form as is appropriate for the class and quantity of paper involved.

(i) *Loans secured by livestock or dairy cattle.*—(1) *Loans secured by livestock.* (i) *Law.* 12 U.S.C. 84(c)(9)(A) provides:

> Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a maximum limitation equal to 25 per centum of such capital and surplus.

(ii) This exception allows a national bank to make loans or extensions of credit to one person in an amount equal to 10 percent of its capital and surplus (in addition to the 15 percent permitted by Section 84(a)(1)), if the loans or extensions of credit are secured by livestock having a market value at least equal to 115 percent of the outstanding loan balance at all times. The loans or extensions of credit may be secured by shipping documents or other instruments which transfer title to, secure title to, or give a first lien on livestock. "Livestock" includes dairy and beef cattle, hogs, sheep, goats, horses, mules, poultry, and fish, whether or not held for resale. To support compliance with this exception, the bank must maintain in its files an inspection and appraisal report on the livestock pledged. The inspection and appraisal report should be performed at least every 12 months, or more frequently as deemed prudent.

(iii) Under the laws of certain states, a persons furnishing pasturage under a grazing contract may have a lien on the livestock for the amount due for pasturage. If the lien which is based on pasturage furnished by the lienor prior to the making of the loan (A) is assigned to the bank by a recordable instrument and (B) is protected against being defeated by some other lien or claim, by payment to a person other than the bank, or otherwise, it would qualify under this exception provided the amount of such perfected lien is at least equal to the amount of the loan and the value of the livestock is at no time less than 115 percent of the loan. Where the amount due under the grazing contract is dependent upon future performance thereunder, the resulting lien has merely prospective value and does not meet the requirements of the exception.

(2) *Loans secured by dairy cattle.* (i) *Law.* 12 U.S.C. 84(c)(9)(B) provides:

> Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a limitation of 25 per centum of such capital and surplus.

(ii) This exception allows a national bank to discount paper of one person given in payment for dairy cattle in an amount equal to 10 percent of its capital and surplus (in addition to the 15 percent permitted by Section 84(a)(1)). The discounted paper must carry the full recourse endorsement or unconditional guarantee of the seller and the dairy cattle must secure the debt. Liens on the cattle may be in any form which allows the bank to maintain a perfected security interest in the cattle under applicable state law.

(3) The exception for loans and extensions of credit secured by livestock is separate and apart from the exception for loans and extensions of credit created by the discount of paper for the purchase of dairy cattle. Therefore, a national bank may make loans or extensions of credit to one person secured by each type of collateral in an amount equal to 10 percent of its capital and surplus (in addition to the 15 percent permitted under Section 84(a)(1)).

(j) *Loans to Student Loan Marketing Association.* 12 U.S.C. 84(c)(10) provides:

> Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

§ 32.7 Transitional rules.

(a) Loans or extensions of credit which were in violation of 12 U.S.C. 84 prior to the relevant effective dates of this part will be considered to remain in violation of Section 84 and subject to actions under 12 U.S.C. 93 and 1818, and other appropriate laws after those dates until they are paid in full, regardless of whether the loans or extensions of credit conform to the rules established in this part. Renewals or extensions of such loans or extensions of credit will also be considered violations of law.

(b) A national bank which has outstanding loans or extensions of credit to a person in violation of Section 84 as of the relevant effective dates of this part may make additional advances to such person after those dates if the additional advances are permitted under this part. The additional advances, however, may not be used directly or indirectly to repay any outstanding illegal loans or extensions of credit.

(c) Loans or extensions of credit which were in conformance with Section 84 prior to the relevant effective dates of this part but are not in conformance with the rules established in this part will not be considered to be violations of law during the existing contract terms of such loans or extensions of credit. Renewals or extensions of such loans or extensions of credit which are not in conformance with the rules set forth in this part may be made on or after the effective dates of this part; however, all loans or extensions of credit made under such renewals or extensions must conform with the rules set forth in this part no later than January 1, 1985.

(d) If a national bank, prior to the relevant effective dates of this part, entered into a legally binding commitment to advance funds on or after those dates, and such commitment was in conformance with Section 84, advances under such commitment may be made notwithstanding the fact that such advances are not in conformance with this part. The bank must, however, demonstrate that the commitment represents a legal obligation to fund, either by a written agreement or through file documentation. Advances under renewals or extensions of such commitments must conform to this part if the renewal or extension of the commitment is made on or after the relevant effective dates of this part.

Interpretations

§ 32.101 Obligations of accommodation parties.

The liability of a drawer, endorser, or guarantor who does not receive any of the proceeds, or the benefit of the proceeds, of the loan or extension of credit is not a loan or extension of credit to such person for purposes of this part unless one of the tests set forth in 12 CFR 32.5(a)(1) is satisfied.

§ 32.102 Sale of Federal funds.

(a) *Definition.* "Sale of Federal funds" means, for purposes of this Section, any transaction among depository insitutions involving the transfer of immediately available funds resulting from credits to deposit balances at Federal Reserve banks or from credits to new or existing deposit balances due from a correspondent depository institution.

(b) Sales of Federal funds with a maturity of one business day or under a continuing contract are not "loans and extensions of credit" for purposes of this Part. However, sales of Federal funds with a maturity of more than one business day are subject to the lending limits.

(c) A "continuing contract" refers to an agreement that remains in effect for more than one business day but has no specified maturity and requires no advance notice for termination.

§ 32.103 Purchase of securities subject to repurchase agreement.

(a) The purchase of "Type I securities," as defined in 12 CFR 1.3(c), subject to an agreement that the seller will repurchase at the end of a stated period is not a "loan or extension of credit" for purposes of this Part.

(b) The purchase of other types of securities subject to an agreement that the seller will repurchase at the end of a stated period is regarded as a loan from the purchasing bank to the seller and not as an obligation of the underlying obligor of the security.

§ 32.104 Purchase of third-party paper.

Where a bank purchases third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a stated period after default, the seller's obligation to repurchase is subject to 12 U.S.C. 84 and is measured by the total unpaid balance of the paper owned by the bank less any applicable dealer reserves. Where the seller's obligation to repurchase is limited, the seller's total loans or extensions of credit, for the purpose of 12 U.S.C. 84 are measured by the total amount of paper the seller may ultimately be obligated to repurchase. Where no more than an agreed percentage of the purchase price is retained by the bank and credited to a reserve to be held as a form of collateral security, but the bank has no direct or indirect recourse to the seller, the loans or extensions of credit do not constitute loans or extensions of credit to the seller subject to the limitations of Section 84.

§ 32.105 Overdrafts.

Overdrafts, whether or not prearranged, are "loans and extensions of credit" for purposes of this part. This rule does not apply to "intra-day" or "daylight" overdrafts.

§ 32.106 Loans charged off in whole or in part.

The lending limits apply to all existing loans or extensions of credit to a person by the bank, including loans or extensions of credit which have been charged off on the books of the bank in whole or in part. Loans or extensions of credit which have become unenforceable by reason of discharge in bankruptcy or are no longer legally enforceable for other reasons are not "loans and extensions of credit" for purposes of this part.

§ 32.107 Sale of loan participations.

(a) When a bank sells a participation in a loan or extension of credit, including the discount of a bank's own acceptance, that portion of the loan that is sold on a nonrecourse basis will not be applied to the bank's lending limits. In order to remove a loan or extension of credit from a bank's lending limit, a participation must result in a pro rata sharing of credit risk proportionate to the respective interests of the originating and participating lenders. This is so even where the participation agreement provides that repayment must be applied first to the shares sold. In that case, the pro rata sharing may only be accomplished if the agreement also provides that, in case of a default or comparable event defined in the agreement, participants shall share in all subsequent repayments and collections in proportion to the percentage of participation at the time of the occurrence of the event.

(b) The provisions of the above paragraph apply to all "loans and extensions of credit," as defined in § 32.2(a) of this Part, including "contractual commitment(s) to advance funds," as defined in § 32.2(d) of this Part.

§ 32.108 Interest or discount on loans.

The lending limits do not apply to the portion of a loan or extension of credit that represents accrued or discounted interest.

§ 32.109 Loans to or guaranteed by general obligations of a State or political subdivision.

(a) A loan or extension of credit to a bank customer which is guaranteed or fully secured by a "general obligation" of any State or political subdivision thereof, within the meaning of 12 CFR 1.3(g), is not considered an obligation of the customer for purposes of 12 U.S.C. 84. The lending bank should obtain the opinion of competent counsel that the guarantee or collateral is a valid and enforceable obligation of the public body.

(b) A loan or extension of credit to a State or political subdivision thereof is not subject to any limitation based on capital or surplus if the loan or extension of credit constitutes a "general obligation" of the State or political subdivision within the meaning of 12 CFR 1.3(g). The lending bank should obtain the opinion of competent counsel that the loan or extension of credit is a valid and enforceable obligation of the borrower.

§ 32.110 Loans to industrial development authorities.

A loan or extension of credit to an industrual development authority or similar public entity created for the purpose of constructing and leasing a plant facility, including a health care facility, to an industrial occupant is not a loan or extension of credit to the authority for the purposes of 12 U.S.C. 84 if: (a) The bank relies on the credit of the industrial occupant in making the loan; (b) the authority's liability with respect to the loan is limited solely to whatever interest it has in the particular facility; (c) the authority's interest is assigned to the bank as security for the loan or a promissory note from the lessee to the bank provides a higher order of security than the assignment of a lease; and (d) the industrial occupant's lease rentals are assigned and paid directly to the bank. A loan or extension of credit meeting the above criteria will be deemed a loan or extension of credit to the lessee and will be combined with other obligations of the lessee for purposes of Section 84.

§ 32.111 Separate limitations for 12 U.S.C. 24 and 12 U.S.C. 84.

The lending limits prescribed by 12 U.S.C. 84 are separate and distinct from the investment limits prescribed by 12 U.S.C. 24. Accordingly, a national bank may make loans or extensions of credit to one borrower up to the full amount permitted by 12 U.S.C. 84 and also hold eligible investment securities of the same obligor up to the full amount

permitted by 12 U.S.C. 24. In order for a security to be an "investment security" it must be eligible for investment by a national bank in accordance with the standards set forth in 12 CFR Part 1.

Dated: April 1, 1983.

H. Joe Selby,

Acting Comptroller of the Currency.

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Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

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Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

13921-14346.....1
14347-14560.....4
14561-14852.....5
14853-15116.....6
15117-15218.....7
15219-15436.....8
15437-15590.....11
15591-15860.....12

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....14910

3 CFR

Proclamations:
4707 (Amended by EO 12413).....13921
4768 (Amended by EO 12413).....13921
5037.....14561
5038.....14853
5039.....14855
5040.....14857
5041.....14859
5042.....15219
5043.....15437
5044.....15439
5045.....15441
5046.....15443

Executive Orders:
December 13, 1898 (Revoked in part by PLO 6366).....14597
11888 (Amended by EO 12413).....13921
12358 (Amended by EO 12415).....15117
12372 (Amended by EO 12416).....15587
12389 (Amended by EO 12413).....13921
12413.....13921
12414.....14861
12415.....15117
12416.....15587

5 CFR

315.....13951
553.....13952
890.....14563
1204.....13954
1205.....13954

Proposed Rules:
351.....13987
451.....15633

7 CFR

Ch. IV.....15227
20.....13954
52.....14563
60.....15221
272.....13955, 15223
273.....13955
274.....15223
276.....15223
295.....15226
410.....15228
414.....15232
418.....14563
718.....13958
906.....13963
907.....15119
910.....13964, 15236
917.....15119
1033.....14571
1434.....15120

Proposed Rules:
6.....15263
51.....15633
52.....15634
226.....15637
272.....15266
273.....15266
319.....13987
810.....14601
928.....15133
989.....14911
993.....15133
1004.....14604
1007.....14604
1011.....14604
1013.....14613
1046.....14604
1120.....14613
1126.....14613
1132.....14613
1138.....14613
1701.....15269

8 CFR

103.....14572
214.....14575
238.....14593
248.....14575
332b.....14594

Proposed Rules:
103.....14631
214.....14631

9 CFR

82.....14863
92.....13965

10 CFR

2.....14873
32.....14863
50.....13966, 14864, 14873

Proposed Rules:
2.....14926
50.....13987, 14926
1017.....13988

11 CFR

106.....14347
9031.....14347
9032.....14347
9033.....14347
9034.....14347
9035.....14347
9036.....14347
9037.....14347
9038.....14347
9039.....14347

Proposed Rules:
9001.....14532
9002.....14532
9003.....14532
9004.....14532
9005.....14532
9006.....14532
9007.....14532
9007a.....14532

12 CFR
3.....15844
6.....15844
7.....15844
32.....15844
205.....14880
217.....15545
226.....14882
552.....15591
563b.....15591
Proposed Rules:
Ch. II.....13993
601.....13999
615.....14594

13 CFR
113.....14890

14 CFR
39.....14347–14357, 15445–15459
71.....15460–15463
73.....14358
97.....14359
389.....15614
Proposed Rules:
39.....14383–14386, 15479, 15480
71.....14388, 15481, 15483
75.....15483
207.....15639
208.....15639
212.....15639
298.....15639
320.....14636
380.....15639

16 CFR
13.....13970–13972, 14891–14895
305.....13972, 13973
Proposed Rules:
13.....14389
457.....15484

17 CFR
140.....15463
190.....15122
Proposed Rules:
1.....14933, 15653
3.....14933
4.....14933
10.....14933
15.....14933
21.....14933
145.....14933
147.....14933
155.....14933
166.....14933
170.....14933
211.....14595

18 CFR
2.....14361
Proposed Rules:
4.....14973, 15134, 15655
11.....14973, 15134, 15655
271.....14974, 14975

19 CFR
10.....14595
143.....14595
Proposed Rules:
10.....15153
111.....15154
177.....14000

20 CFR
651.....15615
654.....15615
Proposed Rules:
404.....15485

21 CFR
5.....13974
81.....13975, 13976
82.....13976
101.....15236
155.....15241
175.....15617
177.....15242
178.....15617
510.....15618
520.....15243
522.....15619
524.....15243, 15618
558.....15244–15246, 15619, 15620
561.....15622
812.....15621
1003.....13978
1240.....13978
Proposed Rules:
101.....14000
133.....15655
148.....14001, 14002
158.....14002
182.....15270, 15271
184.....15270, 15271
201.....14000
211.....14003
347.....15655
501.....14000
701.....14000
801.....14000
1030.....15271
1301.....14640

22 CFR
504.....15464

23 CFR
Ch.I.....14844

24 CFR
200.....15247
203.....15247
215.....13978
236.....13978
425.....13978
426.....13978

26 CFR
1.....15123
48.....14361
145.....14361, 14372
601.....15623
Proposed Rules:
1.....14640, 14641, 15655
4.....14641
301.....14389

27 CFR
9.....14374
178.....13982
Proposed Rules:
9.....14390–14396

28 CFR
2.....14376
Proposed Rules:
16.....15160

29 CFR
500.....15800
Proposed Rules:
1910.....14005

30 CFR
700.....13984
701.....13984, 14814
740.....13984
741.....13984
742.....13984
743.....13984
744.....13984
745.....13984
746.....13984
779.....14814
780.....14814
783.....14814
784.....14814
816.....14814
817.....14814
828.....14814
Proposed Rules:
921.....14006
931.....15656
932.....14005
942.....14013

32 CFR
199.....15624
706.....15247
806.....15248
930.....15255
Proposed Rules:
62b.....15485

33 CFR
74.....15467
100.....15124
207.....13985
Proposed Rules:
100.....15163
110.....15489
117.....15164, 15165

34 CFR
668.....15578
682.....14316
Proposed Rules:
682.....14344

35 CFR
10.....14597

36 CFR
1151.....15625
Proposed Rules:
7.....14976
13.....14978

38 CFR
3.....15124
17.....14378
21.....14378
Proposed Rules:
1.....14659, 15271, 15272
21.....15491

39 CFR
10.....15469
3001.....15626
Proposed Rules:
10.....14660
111.....15492

40 CFR
81.....14379
122.....14146
123.....14146
124.....14146
125.....14146
144.....14146
145.....14146
146.....14146
180.....14896, 14897, 15627
228.....14898
233.....14146
260.....14146
261.....14146, 15256
262.....14146
263.....14146
264.....14146
265.....14146
270.....14146
271.....14146
469.....15382
761.....15125
Proposed Rules:
52.....14661, 15273, 15493, 15498, 15658
61.....15076
81.....15166, 15273
123.....14662, 15167
180.....15982, 15983
260.....14472
261.....14472, 14514
264.....14472, 14514
265.....14472, 14514
266.....14472
403.....15662
421.....14399
465.....14399, 14663
775.....14514

41 CFR
1–1.....14899
1–2.....14899
1–3.....14899
1–6.....14899
101–19.....15628
101–20.....13986

42 CFR
405.....14802
Proposed Rules:
447.....14664

43 CFR
24.....13986
Proposed Rules:
8560.....15275
Public Land Orders:
6366.....14597

44 CFR

64 14380

Proposed Rules:

59 15278
61 15278

45 CFR

205 15629
1612 15630

46 CFR

4 15125
26 15125
35 15125
50 15469
66 15469
78 15125
97 15125
106 15469
109 15125
110 15469
167 15125
185 15125
196 15125

47 CFR

0 15630
1 15630
13 15631
73 ..... 14598–14600, 15475

Proposed Rules:

Ch. I 15663
15 14399
43 14668
73 ..... 14399,14670–14699, 15663, 15665
76 14399

49 CFR

1 ..... 15127, 15476
23 15476
173 15127
177 15127
178 15127
1137 15632

Proposed Rules:

Ch. X 15167
387 15499
391 14413

50 CFR

351 15129
611 ..... 14554, 15259
642 14382
654 14903
655 14554
656 14554
657 14554
658 14903
671 15259

Proposed Rules:

17 ..... 15168, 15428, 15434
20 14700
285 14416

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